



NOTICE OF MEETING

PLANNING COMMITTEE

WEDNESDAY, 3 APRIL 2024 AT 10.30 AM

COUNCIL CHAMBER - THE GUILDHALL, PORTSMOUTH

Telephone enquiries to Democratic Services
Email: Democratic@portsmouthcc.gov.uk

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

Planning Committee Members:

Councillors Chris Attwell (Chair), Darren Sanders (Vice-Chair), Hannah Brent, Peter Candlish, Raymond Dent, Asghar Shah, John Smith, Judith Smyth, Mary Vallely and Gerald Vernon-Jackson CBE

Standing Deputies

Councillors Dave Ashmore, Matthew Atkins, George Fielding, Lewis Gosling, Ian Holder, Mark Jeffery, Steve Pitt, Russell Simpson and Daniel Wemyss

(NB This agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

Representations by members of the public may be made on any item where a decision is going to be taken. The request needs to be made in writing to the relevant officer by 12 noon the day before the meeting and must include the purpose of the representation (e.g. for or against the recommendations). Email requests to planning.reps@portsmouthcc.gov.uk or telephone a member of the Technical Validation Team on 023 9283 4826.

AGENDA

- 1 **Apologies**
- 2 **Declaration of Members' Interests**
- 3 **Minutes of the previous meeting held on 13 March 2024 (Pages 5 - 20)**

- 4** **19/00420/FUL - Fraser Range, Fort Cumberland Road, Southsea (Pages 21 - 52)**

Part demolition, redevelopment and conversion of three existing structures and construction of new buildings. To create 116 apartments and 18 houses, construction of new sea wall flood defences and walkway (to include removal and reinstatement of tank traps), access road, parking and landscaping works (amended description, amended plans (06-01-23) documentation (03-02-23), and updated information (09-10-23) received). The application comprises EIA development.

- 5** **24/00065/FUL - 60 Elm Grove, Southsea PO5 1JG (Pages 53 - 58)**

The continued siting of shipping container for use as storage with retention of wooden roof and extraction system and construction of 2m fence at the rear of the property (part retrospective).

- 6** **2300182FUL - 16 Shadwell Road, Portsmouth PO2 9EJ (Pages 59 - 68)**

Retrospective application for change of use from dwellinghouse (class C3) to purposes falling within dwelling house (class C3) or house in multiple occupation (class C4).

- 7** **2301527FUL - 115 Chichester Road, Portsmouth PO2 0AG (Pages 69 - 80)**

Change of use from a C3 dwelling house to a 7-person/ 7-bedroom house in multiple occupation.

- 8** **23/01106/FUL - 51 Shadwell Road, Portsmouth PO2 9EH (Pages 81 - 92)**

Change of use from a dwelling house (class C3) to a 7-bed/ 7-person house in multiple occupation.

- 9** **23/01604/FUL - 124 Twyford Avenue, Portsmouth PO2 8DL (Pages 93 - 104)**

Change of use from a class C3 dwellinghouse to a 8-bed/ 8-person house in multiple occupation.

- 10** **24/00105/FUL - 68 Margate Road, Southsea PO5 1EZ (Pages 105 - 110)**

Change of use from house in multiple occupation (class C4) to 7-bed/ 7-person house in multiple occupation.

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Agenda Item 3

MINUTES OF THE MEETING of the Planning Committee held on Wednesday 13 March 2024 at 10.30 am in the Council Chamber, the Guildhall, Portsmouth

These minutes should be read in conjunction with the agenda and associated papers for the meeting.

Present

Councillors Chris Attwell (Chair)
Peter Candlish
Raymond Dent
Asghar Shah
John Smith (to end of Minute No. 42)
Judith Smyth
Mary Vallely (from start of Minute No. 36)
Gerald Vernon-Jackson (to end of Minute No. 37)
Dave Ashmore

Welcome

The Chair welcomed members of the public and members to the meeting. The meeting started at 10.38am to give members of the Committee time to read the Supplementary Matters report and accompanying documents which had been circulated.

Guildhall, Fire Procedure

The Chair explained to all present the procedures for the meeting and the fire evacuation procedures including where to assemble and how to evacuate the building in case of a fire.

32. Apologies (AI 1)

Apologies had been received from Councillor Darren Sanders. Councillor Dave Ashmore was present as his standing deputy. Councillor Mary Vallely apologised for lateness (arrived at 10.52am).

The meeting was adjourned for a short break at 12.47pm and resumed at 1.13pm. During Item 12 - 73 Margate Road, Southsea PO6 1EY there were short adjournments at 2.02pm to 2.08pm and 2.23pm to 2.31pm.

33. Declaration of Members' Interests (AI 2)

On item 4 - St Johns College, Grove Road South, Southsea PO5 3QW -
Councillor Gerald Vernon-Jackson declared a personal interest in that a good friend of his works as a PR consultant on behalf of the developer. After receiving advice from the Legal Advisor concerning bias and pre-determination, Cllr Vernon-Jackson clarified that this individual is not a direct employee of the developer and that he is confident that he comes to application with an open mind.

On item 4 - St Johns College, Grove Road South, Southsea PO5 3QW
Councillor Peter Candlish declared a personal interest in that his children had attended the school some 10 years ago.

34. Minutes of the previous meeting held on 21 February 2024 (AI 3)

RESOLVED that the minutes of the Planning Committee meeting held on 21 February 2024 be agreed as a correct record.

Planning Applications

The Supplementary Matters report is on the council's website at [Agenda for Planning Committee on Wednesday, 13th March, 2024, 10.30 am Portsmouth City Council](#)

Deputations (which are not minuted) can be viewed on the webcast at [Webcast of Planning Committee meeting held on 13 March 2024](#)

35. 23/01089/FUL & 23/01074/LBC - St Johns College, Grove Road South, Southsea PO5 3QW (AI 4)

Application A - Planning Application 23/01089/FUL - Conversion and extension of former college buildings to create 110 apartments and demolition of college buildings and erection of new buildings to create 102 apartments utilising existing access from Grove Road South, Nelson Road and Albany Road together with associated landscaping, parking, cycling and refuse storage.

Application B - Listed Building Consent Application 23/01074/LBC - Conversion and alteration of Linnholm and The Castle to create 8 apartments.

The Assistant Director, Economy Planning and Transport, introduced the report which covered both applications for this development. He informed Members that the applications included the conversion and extension of existing buildings, the demolition of others and some new buildings to create 212 new dwellings. There are some listed buildings on the site and others of historical significance, and the settings around listed buildings are also material.

The Assistant Director referred members' attention to SPDs and guidance and noted that the material considerations include the principle of development; housing supply, density, mix and affordable housing; design and heritage considerations; residential amenity; transport and highways matters; trees and landscape; Appropriate Assessment, ecology and biodiversity; flood risk and drainage; energy and sustainability; Community Infrastructure Levy and S106; and Human Rights and the Public Sector Equality Duty.

The Assistant Director drew Members' attention to the Supplementary Matters report ("SMAT") which provided clarification to paragraphs 10.142 and 10.195

and noted that 5 additional representations had been received since the finalisation of the agenda which repeated matters already raised. In addition, further representations had been received from the resident of The Thicket asking for the application to be deferred, leading to the applicant seeking counsel's opinion on the subject. There was no change to the substantive recommendation. The SMAT lastly noted an addition to the identified Heads of Terms for the s106 agreement of a £200,000 financial contribution to Affordable Housing had been made.

The Assistant Director confirmed that 94 representations objecting to the proposed development had been received with two in support.

Deputations

Deputations were made by James Kirby, Tamaryn Storey, Sue Pike (objecting), Stefan Jacobek, The Portsmouth Society (objecting) and David Jobbins (Agent) and Nicholas Roach (Applicant).

Members' questions

The Assistant Director provided the following points of clarification following Members' questions:

- The application does not include a dedicated space for a play area although the developer has considered informal play spaces as part of its landscaping proposals.
- One of the larger green spaces is the central courtyard and this may lend itself to a play area.
- Although not recommended by officers, Members could add a condition requiring the addition of a dedicated area for play but the cost of this may affect the viability of the scheme and the ability of the applicant to offer the, without prejudice, Affordable Housing financial contribution.
- Although subject to a separate application which is not before the Committee for consideration today, for clarification, the applicant has expressed an interest in making nursery space available in the Castle Building, with the potential for a small reduction in the number of dwellings that this scheme would permit. This would be the subject of a future planning application.
- The Applicant has confirmed that it has no objection to permissive access through the site, although this will be limited to daylight hours. Whether this will be at set times throughout the year or a more general dawn to dusk limitation has not yet been agreed.
- All parking spaces are permeable in that hard standing parking will have drainage which will consider the historic nature of the site and avoid water entering the sewer system.
- A Copenhagen style crossing is a blended pedestrian focused crossing where the carriageway rises to the same height as the pavement.
- The Committee may not add a condition to prevent future planning applications seeking to add rooms to roof spaces in flat blocks. This would require a further planning application in any case.
- There is provision for 106 parking spaces and residents will not be able to apply for residents' parking permits. Residents or visitors will need to find legal parking spaces elsewhere.

- Detailed drawings of the windows have been provided in paragraph 5, page 2 of the Applicant's submission. Nonetheless, Condition 4 requires the Applicant to submit details regarding the design and appearance of all windows and doors and this will include the requirement for obscure glazing when appropriate.
- It was not possible to say whether a Committee decision to refuse would be overturned on appeal to the Planning Inspector as it would entirely depend on the reasons given. Officers have considered the application, its benefits and disbenefits and in the round have recommended approval.
- Any application to add accommodation in the roof space would be considered on its merits at the time of the hypothetical application. The usable space is minimal; the roof would need to be redesigned and the imposition of, for example, a flat roof to prevent conversion in the future would be of concern to the Conservation Officer.
- The Committee may seek to make minor design changes by decision, but to reduce the height of the Simon Wing by one storey with the loss of 8 units, as suggested by one of the residents making a deputation, is likely to be considered going beyond these powers.
- At 21 metres, the separation distance between The Thicket and the Simon Wing gives more separation than in many cases and The Thicket is itself a narrow road.
- The current building nearest the location of the Simon Wing does not contain living accommodation. At the western end of The Thicket its spot height is 11.98m; the new building will be 16.3m to 16.5m though it is not in the same place on the site.
- The developer has suggested that a high proportion of the accommodation will be available to rent. However, offering units for rent at 'affordable' rates would not qualify them as affordable housing. The definition of affordable housing is very tightly controlled, and to qualify must be subject to legal control so that it is maintained in that format in perpetuity. There is no on-site affordable housing in this scheme.

Members' comments

Members commented that the provision of rental accommodation in Southsea where there is a high proportion of owner-occupied properties is to be welcomed. The St John's site is currently vacant and subject to vandalism and its future needs to be resolved. The proposal includes the demolition of some poor buildings, the inclusion of mature trees is to be welcomed and Owen's Southsea does not entirely take one building form.

Members were minded to approve Application A with an additional condition relating to the provision of a play area for young children and were content for authority to draft the condition to be delegated to the Assistant Director for Planning and Economic Growth.

As Councillor Mary Vallely had arrived during the officer's presentation, she was not able to vote on the matter.

Application A - PLANNING APPLICATION 23/01089/FUL

RESOLVED to:

- 1) Grant planning permission subject to conditions and a s106 Agreement.**
- 2) Delegate authority to the Assistant Director for Planning and Economic Growth to finalise the wording of the draft conditions (listed below) and an additional condition regarding the provision of play space, and finalise the s106 agreement in line with the Heads of Terms listed above.**

Draft Conditions (Headings)

- 1. TIME LIMIT**
- 2. APPROVED PLANS**
- 3. MATERIALS**
- 4. DETAILED DESIGN/APPEARANCE OF ALL NEW WINDOWS AND DOORS**
- 5. CONSTRUCTION ENVIRONMENT MANAGEMENT PLAN**
- 6. CONTAMINATED LAND - RISK MITIGATION**
- 7. CONTAMINATED LAND - VERIFICATION**
- 8. CONTAMINATED LAND - WATCHING BRIEF**
- 9. PREVIOUSLY UNIDENTIFIED CONTAMINATION**
- 10. FLOODING - REVISED FLOOD RISK ASSESSMENT AND IMPLEMENTATION**
- 11. SURFACE WATER DRAINAGE SCHEME**
- 12. PILING METHOD STATEMENT**
- 13. LOCAL HIGHWAY IMPROVEMENTS**
- 14. LANDSCAPING - DETAILS**
- 15. BOUNDARY TREATMENT**
- 16. BOUNDARY ENTRANCE(S) OPENING TIMES**
- 17. ARBORICULTURAL METHOD STATEMENT**
- 18. TREE PROTECTION**
- 19. LANDSCAPE IMPLEMENTATION**
- 20. LIGHTING SCHEME**
- 21. NOISE AND VIBRATION MITIGATION**
- 22. ECOLOGICAL MITIGATION**
- 23. SUSTAINABILITY MEASURES**
- 24. WATER EFFICIENCY**
- 25. CAR PARKING**
- 26. CYCLE PARKING**
- 27. CAR PARKING ACCESS AND MANAGEMENT PLAN**
- 28. PROVISION OF REFUSE AND RECYCLING FACILITIES**
- 29. ARCHAEOLOGY**
- 30. DEFENSIBLE SPACE FOR GROUND FLOOR RESIDENTIAL UNITS**
- 31. BAT SURVEY**
- 32. SWIFT BRICKS**
- 33. TRAVEL PLAN**

- 34. EV CHARGING**
- 35. DELIVERY AND SERVICING PLAN**
- 36. BIODIVERSITY NET GAIN**

Application B - LISTED BUILDING CONSENT APPLICATION 23/01074/LBC

RESOLVED to:

- 1) Grant listed building consent subject to conditions.**
- 2) Delegate authority to the Assistant Director for Planning and Economic Growth to finalise the wording of the draft conditions (listed below).**

Draft Conditions (Headings)

- 1. TIME LIMIT**
- 2. APPROVED PLANS**
- 3. MATERIALS**
- 4. DETAILED DESIGN/APPEARANCE OF ALL NEW WINDOWS AND DOORS**
- 5. DETAILED DESIGN/SITING OF REFUSE AND CYCLING STORES**

36. 23/01549/DOC - Southsea Seafront from Long Curtain Moat in the west to Eastney Marine Barracks in the east (AI 5)

Application to seek approval of details reserved by conditions 2 (phasing plan); 3 (potential for soil contamination); 11 (protection of birds); 16 (soft landscaping); 17 (earth bund design); 18 (drainage); 19 (CEMP); 20 (CTMP); 21 (lighting); 22 (street furniture); 23 (flood gates and boards); 24 (hard surfacing materials); 26 (roads and footpaths); 28 (lamps); 29 (monuments); 32 (scale of secondary defences); 33 (scale of rock revetments); and 34 (scale of primary defences) of Planning Permission 23/00896/VOC.

The Development Management Team Leader, Economy Planning and Transport, introduced the report and informed Members that the whole scheme extends from Long Curtain Moat in the west to the Eastney Barracks in the east. The frontage for consideration is Phase 4. The application aims to deliver a continuity of approach throughout the scheme and this application includes the finer design details such as materials, landscaping, public art and street furniture. The soft landscaping aims to provide year round structure and colour to the seafront as well as biodiversity interest. Lighting and street furniture proposals are similar to previous applications, are appropriate for use in a coastal environment and the shingle will be locally sourced.

Members' questions

Alex Prior and Robin Ward were present from Coastal Partners to answer questions and provide information of detail. In response to Member's questions, they clarified that:

- There were no plans to include historical interpretation boards, for example for the anchor or monuments, within this part of the scheme.

- Although the images suggested that some seating would have sloped ends which could allow scooters up onto the seating, the ends were square, there will be arm rests at regular intervals and studs will stop skateboarding.

The Assistant Director did not have any information about whether a budget had been allocated for artwork pieces to support the scheme. Depending on the nature of the art or sculpture installations, planning permission may be required.

Members' comments

Councillor Vernon-Jackson commented that it was not intended for there to be a net loss in car parking in the area. He also commented that although the sea defences were being funded by central government, the Council had allocated some budget for the provision of art along the seafront.

Councillor Smyth commented that the original application had envisaged zones, each with a different feel and design along the seafront and she had supported this. However, having seen the high quality, clutter free design delivered to date, she is now supportive of this more consistent approach. Councillor Smyth noted that it was important to explain Portsmouth's history to visitors and she supported the introduction of a limited number of historical interpretation boards.

The Assistant Director clarified that there was authority to install heritage interpretation boards at Long Curtain Moat and Southsea Castle in accordance with prior plans for the whole scheme. Members were minded to agree the conditions set out in paragraph 1.4 of the officers' report (soft landscaping, external lighting, street furniture and walls, hard surfacing materials, roads and footpaths), and request the use of further interpretation boards for items of historical significance relevant to Phase 4 by way of an informative.

RESOLVED - To approve details submitted pursuant to Conditions 16, 21, 24, 26 and 35 subject to an informative relating to the use of interpretation boards for items of historical significance.

37. 24/00012/FUL - Adventure Playground Stamshaw Park, Newcomen Road, Portsmouth (AI 6)

Construction of single storey brick building to provide youth club (24/00012/FUL).

The Assistant Director, Economy Planning and Transport, introduced the report which was before the Committee for consideration as the application was by Portsmouth City Council. The Assistant Director drew Members' attention to the Supplementary Matters report which included a representation which had been received from Councillor Lee Hunt supporting the application.

Members' questions

There were no questions.

RESOLVED: To grant approval subject to conditions set out in the officers report.

The Committee took a short break at 12.47pm and resumed the meeting at 1.13pm when time was given to read additional information circulated in relation to Items 8 - 32 Montgomerie Road, Southsea PO5 1ED and Item 13 - 165 Laburnam Grove, Portsmouth.

Councillor Gerald Vernon-Jackson left the meeting before consideration of the remaining items on the agenda.

- 38. 23/01592/FUL - 350-352 London Road, Hilsea, Portsmouth PO2 9JY (AI 7)**
Construction of two storey rear extension (following removal of existing ground floor extension) with gable end roof enlargement, associated fenestration, and solar panels.

The Assistant Director, Economy Planning and Transport, introduced the report and informed Members that this relates to a commercial building and the rear of a commercial building which it is proposed to replace and extend. The key issues for consideration in the determination of the application are the principle of development; design and layout; residential amenity and highways and transportation impacts. In response to the consultation a total of seven objections letters of objection have been received voicing concerns including increased traffic/parking, increased levels of noise, disturbance, air pollution, overlooking and loss of privacy and crime.

Deputations

A deputation was made by Brian Mabe (Applicant).

Members' questions

The Assistant Director confirmed that the hours of operation set out in paragraph 5 of the officer's report could be enforced by way of a Breach of Condition Notice if necessary. He agreed the hours of operation were restrictive but were the hours sought by the applicant.

RESOLVED: To grant conditional permission as set out in the officer's report.

- 39. 20/00944/FUL - 32 Montgomerie Road, Southsea PO5 1ED (AI 8)**
Change of use from purposes falling within a Class C4 (house in multiple occupancy) to house in multiple occupancy for more than 6 persons (*sui generis*).

The Assistant Director, Economy Planning and Transport, introduced the report and noted that planning permission had been refused in 2019 as it was considered that the time that the communal living space was not adequate. However, the bedroom layout has been reoriented with the result that the

scheme is now compliant with the council's space standards. The Assistant Director drew Members' attention to the Supplementary Matters report which noted that elevation plans had been provided by the Applicant. There was no change to the recommendation in the officer's report.

Deputations

A deputation was made by Carianne Wells (Agent).

Members' questions

In response to Members' questions, the Assistant Director clarified that:

- Although the downstairs W/C failed to meet the council's space standards this related to 4cm² (about the size of a book of stamps) and officers considered this to be insignificant.
- If so minded, the Committee could limit occupancy to 7 persons by condition.
- When considering the number of HMOs in an area, officers take a 'worst case scenario' into account and include all Class C3 and Class C4 properties which could operate as an HMO, resulting in a calculation of 37.5% in this case.

Members' comments

It was recognised that the application only narrowly failed to meet the council's space standards and that the loss of space was not significant. Councillor Smyth suggested that the application required planning permission due to the concentration of HMOs in the area which is over 10%, amenity impact on neighbouring residents, the quality of the living space for potential occupants and the potential impact on nitrates. This was agreed.

RESOLVED:

- 1) The proposal is considered to be a development requiring planning permission due to the concentration of HMOs in the area, intensity of the use of the accommodation and quality of living space for occupants, amenity impact upon neighbouring residents and the impact on the Solent Special Protection area (nitrates).**
- 2) To grant conditional planning permission subject to:**
 - i) Implementation of the permission within 3 years;**
 - ii) The development to be carried out in accordance with the approved plans;**
 - iii) Satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution;**
 - iv) An additional condition to limit occupancy to 7 people be added by the Assistant Director of Planning & Economic Growth.**

40. 23/01220/FUL - 19 Tamworth Road, Portsmouth PO3 6DL (AI 9)

Change of use from dwellinghouse (Class C3) to purposes falling within Class C3 (dwellinghouse) or Class C4 (house in multiple occupation).

The Assistant Director, Economy Planning and Transport, introduced the report noting that this application required planning permission and that it had been deferred from the Planning Committee meeting held on 10 January 2024.

The Assistant Director drew Members' attention to the Supplementary Matters report which noted that the floor plan has been updated, further comments had been received from one of the objectors querying the external measurements and that the measurements had been checked by officers. A further representation had been received from Councillor Darren Sanders. The officer recommendation is to update Condition 2 to reflect the updated floor plan and proposed layout. The Applicant has confirmed again that the intended occupation is as a 4-bedroom/4-person HMO.

Deputations

A deputation was made by Chris Broyd (Agent).

Members' questions

The Assistant Director confirmed that the plans are now correct, there is no overhang over the ground floor and the measurements and floor plans have been subject to great scrutiny.

RESOLVED: To grant Conditional permission as set out in the officer's report and the Supplementary Matters report.

41. 23/01420/FUL - 25 Tottenham Road, Portsmouth PO1 1QL (AI 10)

Change of use from 5 bedroom/ 6-person house in multiple occupation, to 7 person/ 7 bedroom house in multiple occupation.

The Assistant Director, Economy Planning and Transport, introduced the report and informed Members that the application had been withdrawn from the agenda for the Committee meeting held on 31 January 2024. The Applicant has re-assessed how to provide an amended layout and still achieve the necessary minimum of 22.5sqm of communal kitchen-dining space. As a result, all the rooms meet the size requirements of the HMO SPD, and all would have reasonable layout and natural light. It was the officer's view that planning permission was not required.

The Assistant Director drew Members' attention to the Supplementary Matters report which provided an updated location plan to reflect the change to the proposed extension from the original submission. There was no change to the officer's recommendation.

Members' questions

The Assistant Director clarified that when considering the number of HMOs in an area, officers take a 'worst case scenario' into account and include all Class C3 and Class C4 properties. In addition, an HMO may come to light because of enforcement action.

Members' comments

Councillor Candlish proposed that the application required planning permission due to the density of HMOs in the area, amenity impact on neighbouring residents, the quality of the living space for potential occupants and the potential impact on nitrates. This was agreed.

RESOLVED:

- 1) The proposal is considered to be a development requiring planning permission due to the concentration of HMOs in the area, intensity of the use of the accommodation and quality of living space for occupants, amenity impact upon neighbouring residents and the impact on the Solent Special Protection area (nitrates).**
- 2) To grant conditional planning permission subject to:**
 - i) Implementation of the permission within 3 years;**
 - ii) The development to be carried out in accordance with the approved plans;**
 - iii) Satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution.**

42. 23/01544/FUL - 82 Chichester Road, Portsmouth PO2 0AH (AI 11)

Change of use from C3 dwellinghouse to a 7-bedroom/ 7-person House in Multiple Occupation.

The Assistant Director, Economy Planning and Transport, introduced the report and noted that as Councillor Benedict Swann was not able to be present, exceptionally it had been agreed that his written submission and the statement he had been due to read on behalf of Tracey Brickell would be accepted.

Deputations

A deputation was made by Carianne Wells (Agent). Deputations were due to be made by Tracey Brickell (Objecting) and Councillor Benedict Swann but they were not present and their submissions had been added to the Supplementary Matters report.

Members' questions

The Assistant Director confirmed that the application had been called in by Councillor Jason Fazackarley and Councillor Benedict Swann and that reference to Councillor Darren Sanders in paragraph 7.1 was an error.

Members' comments

Members noted that the application was clearly for occupation by 7 persons and that it was not necessary to control this by condition.

RESOLVED: To grant conditional permission and that:

- 1) Delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:
 - a) Receipt of no objection from Natural England;**
 - b) Satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution and conditions (below).****
- 2) Delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.**
- 3) Delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.**

43. 123/01584/CPL - 73 Margate Road, Southsea PO5 1EY (AI 12)

Application for certificate of lawful development for proposed use as a 7-bedroom/ 7-person house in multiple occupation.

The Assistant Director, Economy Planning and Transport, introduced the report and noted that the sole issue for consideration in the determination of this application is whether the increase from six occupants to seven occupants in an existing Class C4 House in Multiple Occupation would result in a material change of use as defined under s55 of the Town and Country Planning Act 1990. As the application is for a Certificate of Proposed Lawfulness and not a Planning Application, no neighbour publication is required under the Council's Statement of Community Involvement. It was noted that this was a parallel application as the previous application had been refused and was currently subject to an appeal to the Planning Inspector.

Deputations

A deputation was made by Mr Briscoe (Applicant).

Members' questions

Following an adjournment (2.02pm to 2.08pm) to obtain information, the Assistant Director presented a table showing the room sizes for the property following a request for this information from Councillor Smyth.

The Assistant Director provided the following points of clarification in response to Members' questions:

- When providing room sizes, measurements are taken from a mid-point in the room, variations along a wall may not be taken into account and officers considered that the room sizes provided were within normal tolerances.
- The Applicant, in his deputation had confirmed that the communal room size varied by +/- 5cm along the wall length.

- Bedroom 6 is the newly created bedroom; Bedroom 7 includes a corridor space and limited headroom which may result in reduced amenity for the occupant. This is relevant to the quality of living of occupants but is not material to the change of use application.
- As set out in the report, every application which has been refused on this basis has been overturned on appeal to the Planning Inspector and guidance on room sizes does not therefore apply to the application for a Certificate of Lawfulness.
- The sole issue for consideration in the determining of this application is whether the increase from 6 occupants to 7 occupants in an existing Class C4 House in Multiple Occupation would result in a material change of use. Officers consider that planning permission is not required but the Committee may make a judgment on that matter.

The Legal Advisor commented that this is currently a 7 bedroom house with 6 occupants and that the Committee should consider whether adding one further occupant was a material change of use. The Assistant Director added that the Applicant did not need planning permission to reconfigure the property to add a bedroom (by putting a wall up) and he confirmed that the *status quo* is that this is a 7 bedroom property. He also confirmed that Licensing considers that it is acceptable and has issued a license for 7 persons.

Councillor John Smith left the meeting at 2.16pm.

In response to further questions, the Assistant Director confirmed that as the planning authority, the Committee must determine applications and it was not appropriate to defer this application while the appeal for the previous application was being considered by the Planning Inspector. He also clarified that there is a back log of appeals to the Planning Inspector and that although the target was for appeals to be determined in 26 weeks, he was aware of appeals taking 12-14 months. The Assistant Director also confirmed that as this application and the proposal subject to appeal are the same, the Committee's decision regarding room sizes will be relevant to the appeal and that if the appeal is successful, the outcome would be material.

There was a short adjournment (2.23pm to 2.31pm).

Members' comments

Members considered whether the application needed planning permission due to the intensity of the use of the accommodation, quality of living space for occupants due rooms being compromised by corridors, the lack of clarity relating to compliance with space standards in relation to the communal living room and the density of HMOs in the area. Members also expressed a desire to be consistent in their decision making in relation to the previous application.

The Legal Advisor advised that as the application is for a Certificate of Lawfulness and not a Planning Application, the space standards guidance cannot be taken into account.

Councillor Candlish commented that no new information had been presented to the Committee and he proposed refusal on the same grounds as in November 2023 namely impact on parking, increase in waste, noise and antisocial behaviour.

As Councillor John Smith had left the meeting during consideration of this item, he was not present to vote on the matter.

RESOLVED: To refuse the application for a Certificate of Lawfulness due to the impact on parking, increase in waste, noise and antisocial behaviour.

44. 23/01599/FUL - 165 Laburnam Grove, Portsmouth (AI 13)

Change of use from Class C3 dwelling house to 7 person/ 7 bedroom house in multiple occupation.

The Assistant Director, Economy Planning and Transport, introduced the report and clarified that although the hyperlink in the report referred to an 8 bedroom/ 8 person house in multiple occupation, this was an application for change of use to 7 person/ 7 bedroom house in multiple occupation. The main issue to consider in the determination of this application is whether the proposal is acceptable in principle. The Assistant Director drew Members' attention to the Supplementary Matters report, amended plans and an additional written submission from Councillor Swann.

Deputations

A deputation was made by Carianne Wells (Agent).

Members' questions

The Assistant Director confirmed that the density of HMOs within a 50m radius was below 5%.

Members' comments

Members noted that the application was fully compliant with the council's space standards for HMOs. One member expressed concerns about sewerage overflowing into street.

RESOLVED:

- 1) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution.**
- 2) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.**

- 3) That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.**

The meeting concluded at: 2.43pm.

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Signed by the Chair of the meeting

Councillor Chris Attwell

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Agenda Item 4

19/00420/FUL

WARD: EASTNEY & CRANESWATER

**FRASER RANGE FORT CUMBERLAND ROAD SOUTHSEA
PART DEMOLITION, REDEVELOPMENT AND CONVERSION OF THREE EXISTING
STRUCTURES AND CONSTRUCTION OF NEW BUILDINGS. TO CREATE 116
APARTMENTS AND 18 HOUSES, CONSTRUCTION OF NEW SEA WALL FLOOD
DEFENCES AND WALKWAY (TO INCLUDE REMOVAL AND REINSTATEMENT OF TANK
TRAPS), ACCESS ROAD, PARKING AND LANDSCAPING WORKS (AMENDED
DESCRIPTION, AMENDED PLANS (06-01-23) DOCUMENTATION (03-02-23), AND
UPDATED INFORMATION (09-10-23) RECEIVED). THE APPLICATION COMPRISES EIA
DEVELOPMENT.**

LINK TO ONLINE DOCUMENTS:

[19/00420/FUL | Part demolition, redevelopment and conversion of three existing structures and construction of new buildings to create 116 apartments and 18 houses, construction of new sea wall flood defences and walkway \(to include removal and reinstatement of tank traps\), access road, parking and landscaping works \(amended description, amended plans \(06-01-23\), documentation \(03-02-23\), and updated information \(09-10-23\) received\). The application comprises EIA development. | Fraser Range Fort Cumberland Road Southsea \(portsmouth.gov.uk\)](#)

Application Submitted By:

Pearce Planning Ltd
FAO Mr Alan Pearce

On behalf of:

Orangestar Capital (Portsmouth) Ltd

RDD: 14th March 2019

LDD: 31st July 2019

EOT: 4th September 2024

1. SUMMARY OF MAIN ISSUES

- 1.1. This application is being presented to Planning Committee as it is a significant major development involving the part demolition, redevelopment and conversion of three existing structures and the construction of new buildings to create 116 apartments and 18 houses.
- 1.2. The main planning issues are considered to be:
 - Principle of development
 - Design and character
 - Heritage considerations, including impact upon Scheduled Monument and Grade II* listed heritage assets.
 - Impact on amenity and standard of accommodation
 - Highways and parking
 - Ecology (including Environmental Impact Assessment (EIA), Biodiversity Net Gain (BNG) and Appropriate Assessment (AA)).
 - Proposed sea defences
 - Landscape and Visual Impact
 - Viability
 - Sustainable design & construction

2. SITE DESCRIPTION

- 2.1. The application relates to a 6.5ha site located adjacent to Eastney Beach, to the south-east of Fort Cumberland Road. The site was a former 20th century military training and experimental establishment and is occupied by a number of buildings and structures, which are in various states of disrepair / dereliction.
- 2.2. The site was formally closed in 2006 and has been vacant since that time. It is currently closed off to the public by high metal security fencing and gates. Land surrounding the existing buildings comprises a mix of coastal grassland, scrub, shingle, low coastal vegetation and hard surfacing.
- 2.3. The application site lies immediately adjacent to and incorporates part of Fort Cumberland, which is a Scheduled Ancient Monument and is Grade II* listed.
- 2.4. The site is surrounded by three Sites of Importance for Nature Conservation (SINCs), including the Fort Cumberland SINC and Land West of Fort Cumberland SINC to the north and Eastney Beach SINC to the south. A section of the Fort Cumberland SINC adjacent to the access road falls within the application site.
- 2.5. Areas of land in and around the site are identified for their importance for Solent Waders and Brent Geese. This includes two areas of beach to the south of the site, one identified as a Primary Support Area, and one identified as a low use area. There is also a nearby area of land to the north-east of Fort Cumberland which is identified as a Secondary Support Area (P127).
- 2.6. When the application was submitted, it was identified as being within Flood Zone 1 (low risk) on the Environment Agency (EA) flood maps. When the EA flood maps were updated in 2020, the site was moved into Flood Zone 3 (high risk).
- 2.7. To the west of the site is Southsea Leisure Park caravan park and there are residential properties further to the north on the opposite side of Fort Cumberland Road, as well as Southsea Marina and Boatyard. To the east of the site is a Southern Water storm tank and combined sewer outfall. To the south there are far reaching views across the Solent.
- 2.8. Access to the site is via the road which links to Fort Cumberland Road. There is a public footpath that runs from the access road down to Eastney Beach to the west of the site, adjacent to the caravan park.



View of the site looking east to west.



Red line boundary of the site with the block of existing buildings.

3. PLANNING CONSTRAINTS

3.1. The site is subject to the following key constraints

- Site lies within Flood Zone 3
- The site's southern boundary is the Solent
- Lies in close proximity to the Historic Fort Cumberland
- Three Sites of Importance for Nature Conservation (SINCs), including the Fort Cumberland SINC and Land West of Fort Cumberland SINC to the north and Eastney Beach SINC to the south

4. PROPOSAL

- 4.1. Planning permission is sought for a residential development of the site, comprising part conversion of existing buildings and part new build, to provide a total of 134 new dwellings



- 4.2. The proposed buildings are referenced within the application documents by numbers, summarised as follows:

- 4.3. Block 1, comprise of -

- Block 1A - 3-storey, 5x 4-bedroom houses, 1x4 bedroom duplex, 1x2 bed apartment;
- Block 1C/D - 3-storey, 3x3-bedroom houses, 1x3 bedroom apartment, 2x2 bedroom apartment, 3x4 bedroom houses;

- 4.4. The main works to Block 2 would comprise a roof extension, along with repair works and the installation of new fenestration including new entrance doors on the south elevation. The roof extension would be set in from the south, east and west facades of the building and would measure 2.65m (top of parapet) and 12.88m (plant room) in height with a flat roof, constructed of powder coated aluminium. Block 2 will increase by 2.65m (from top of existing parapet) and 650mm (new tower to the top of existing plant room)

Block 2 - Conversion and extension of existing building to provide 22 flats (3 storey)

- 6 x 1-bed
- 9 x 2-bed
- 7 x 3-bed

Block 3 - New build 2-storey building (7.1m height) to provide 7 flats:

- 2 x 1-bed
- 4 x 2-bed
- 1 x 3-bed

Block 4 - New build 5-storey building (15.75m height) to provide 26 flats:

- 6 x 1-bed
- 15 x 2-bed
- 5 x 3-bed

- 4.5. The main works to Block 5 would comprise a first-floor extension on the south side of the building and a roof extension. The first-floor extension would measure 3.5m in depth, extending partially over an existing flat roof, and 11.09m in height. The roof extension would be constructed of powder coated aluminium and new glass balustrading would be installed on the southern side. Increase in height from existing is 3.5m.

Block 5 - Conversion and extension of existing building to provide 26 flats (3 storey):

- 2 x 1-bed
- 15 x 2-bed
- 9 x 3-bed

Block 6 - New build 5-storey block (16.1m height) to provide 27 flats:

- 8 x 1-bed
- 16 x 2-bed
- 3 x 3-bed

Block 7 - New Build terrace (8.5m height) of 7 houses and 2 duplex:

- 2 x 3-bed duplex
- 1 x 2-bed house
- 6 x 4-bed house

- 4.6. Ancillary buildings - The predominant materials for the new buildings and extensions would comprise facing brickwork, powder coated aluminium and glazing. The buildings consist of a gate house, management suite and management storage.

- 4.7. It is proposed that the North Cape building be converted into a dwelling which is acceptable. This building lies within the boundary of the Fort Cumberland Scheduled Monument (SM). Drawings have been submitted proposing to convert the building into a three bedroomed house.

- 4.8. The scheme also includes the following associated works:

- i. The flood defence works would comprise the creation of a rock armour revetment to reduce wave overtopping, which entails the positioning of layers of rock beneath the beach shingle. The defences would extend along the southern side of the application site and along part of its length a concrete retaining wall would be provided. The extent of the rock features and height of the wall would vary along its length. This wall would form part of the boundary of a new coastal footpath.
- ii. Widening of the existing access road by 250mm (excluding new pavement) and 2.25m (with pavement) on its northern side to measure 5.53m or 7.53m with pavement.



4.9. A summary of the revised and updated plans and their respective amendments are as follows:

- Blocks 1A and 1C/D have been reorientated to frame the key view from the Fort to the north toward the ocean to the south. Rear domestic gardens are less visible from the Fort as a result of this change.
- Block 1B has been removed from the scheme, with dwellings added to Blocks 1C/D and Block 7 has been reorientated such that it faces / is accessed from the west and frames the entrance to the site from the south.
- A 'gatehouse' feature building is proposed to the north of the site entrance, to help frame the gateway into the site and provide an opportunity for an interpretation panel detailing the history of the site.
- Corner elements to Blocks 1C/D and 7 have been amended to have softer corners and wider frontal aspects.
- The changes to Blocks 1A, 1C/D and 7 have created a landscaped space which serves as a central focal point for the scheme.
- Parking provision has largely been consolidated at 4 no. main parking areas (west of Block 1A), between Blocks 5 and 6, north of Block 2 and to the east of Block 4. This allows for a largely simplified and 'uncluttered' public realm in the centre of the scheme. Parking areas on the northern portion of the site would feature pergolas with climbing planting. Parking areas adjacent to the southern boundary would feature light-weight structures to provide protection during storm events.
- Two small existing buildings to the north of Block 2 are now also proposed to be demolished.

4.10. Buildings 1A-D

Buildings A and D have been realigned along a roughly north/south axis, forming a well-defined open space and shared outlook designed to reinforce a key historic view between the ravelin of Fort Cumberland and the sea forts of the Solent. This realignment also reduces the amount of north-facing facades and associated private amenity space, providing attractive east- and west facing views and defensible outdoor space to the majority of new dwellings.

In addition, Building C has been moved northwards and adjoined to Building D to create a single L-shaped block which presents a prominent architectural form at their intersection.

4.11. Building 7

The previous appearance of this building was deemed to be too imposing and 'sharp', necessitating a redesign more appropriate to its prominent location when entering the site. This involved breaking up its repetitive nature by incorporating an architectural feature element incorporating apartment dwellings and additional outdoor roof space allowing a better visual outlook over the entrance for residents and reinforcing the prevailing residential character of the site upon arrival.

The new positioning of building 7 also improves the setting and amenity of the public footway accessing the seafront, providing an attractive and sheltered outlook for residents and improving overall security through an increased sense of occupancy.

4.12. Site entrance

Building 7 has also undergone a reorientation in order to better 'anchor' the main entrance, contributing to an improved sense of arrival through a prominent and visually striking entrance that is easily distinguished from other buildings on site. This space around the entrance has been further enhanced with appropriate landscaping, lighting and other complementary architectural elements.

The replacement of building 1B with a smaller gatehouse structure contributes to this sense of arrival by defining a recognisable entry point to the site within the surrounding landscape. Additionally, the access road has been designed in a way that naturally guides people around the site through strategic landscaping and footpaths. This assists in user orientation, and where the existing road deviates to serve other parts of the site, a clear footpath continues to delineate its historical passage through the central public space.

4.13. Phasing

A phasing plan has been submitted as part of the application. It shows that development will be split into 3 parts

- 1 - the required coastal defences will be installed first
- 2 - the infrastructure will be constructed including the roads and drainage
- 3 - the residential development will commence

5. POLICY CONTEXT

5.1. The planning policy framework for Portsmouth is currently provided by the Portsmouth Plan (The Portsmouth Core Strategy) adopted in January 2012. This framework is supplemented by a number of saved policies from the Portsmouth City Local Plan (2006).

5.2. Having regard to the location of this site, the relevant policies within the Portsmouth Plan would include:

- PCS9 (The Seafront)
- PCS10 (Housing Delivery)

- PCS12 (Flood Risk)
- PCS13 (A Greener Portsmouth)
- PCS15 (Sustainable Design and Construction)
- PCS16 (Infrastructure)
- PCS17 (Transport)
- PCS19 (Housing)
- PCS23 (Design and Conservation)

Portsmouth City Local Plan 2006

- Saved Policy DC21 Contaminated Land

5.3. Regard also must be had to the following SPDs and guidance:

- Seafront Master Plan 2021;
- Conservation & Built Heritage 2021;
- Parks and Open Spaces Strategy 2012-2022;
- Sustainability Strategy 2010;
- Tall Buildings Study 2009;
- Portsmouth Transport Strategy 2021-2038;
- Housing Provision in Portsmouth 2006-2027;
- Parking Standards and Transport Assessment Supplementary Planning Document 2008;
- Solent Recreation Mitigation Strategy 2017;
- Interim Nutrient Neutral Mitigation Strategy for New Dwellings (for the 2021- 2023/24 Period) 2022;
- Air Quality and Air Pollution 2006;
- Developing Contaminated Land 2007;
- Housing Standards 2013;
- Planning Obligations 2012

5.4. The National Planning Policy Framework (December 2023) (NPPF) is also an important material consideration and is supported by guidance in the National Planning Practice Guidance (NPPG).

Seafront Masterplan

5.5. Portsmouth City Council adopted a Seafront Masterplan Supplementary Planning Document in March 2021. This document has been prepared to guide proposals for regeneration and development of the seafront and immediate surroundings. The overall aim of the Masterplan is to attract more people to the area (both local and tourists), to sustain and enhance the city's economy, whilst ensuring that the heritage and nature conservation values of the area are protected.

5.6. Fraser Range lies within the Eastney Beach character area as defined by the Seafront Masterplan. This section extends from the junction of St Georges Road eastwards to the Haying Ferry and incorporates the areas surrounding Eastney Barracks, Southsea Leisure Park, and Fort Cumberland. The document states that as the Fraser Range site is vacant, then if a redevelopment proposal comes forward, then it should be careful consideration should be given to how a scheme could be sensitively designed in relation to its proximity and relationship with Fort Cumberland and its setting, in terms of building heights, style, materials and opportunities to improve physical connections to Fort Cumberland and the coastal path.

- 5.7. Fraser Range has opportunities to enhance the natural environment in terms of providing for net-gain in biodiversity and the enhancement of flood defences.
- 5.8. It must be recognised that the Seafront Masterplan is intended to guide the development and regeneration of the publicly accessible areas of the seafront and associated public realm. The Masterplan does not seek to set out principles for the development of adjacent, privately owned sites which may come forward for development. For this reason, the Masterplan does not include any specific objectives relating to the potential redevelopment of Fraser Range. However, an important consideration in the determination of this application will be how the development responds to its wider context and the objectives of the Seafront Masterplan.

6. RELEVANT PLANNING HISTORY

- 6.1. The planning history most relevant to the determination of the application includes:
- 19/01704/LBC - Removal and reinstatement of World War 2 Anti-Tank Defences to facilitate new coastal defence and coastal path works - Approved 8 July 2022
 - 17/00003/EIASCO - EIA scoping opinion - issued 19 June 2017
 - A*26996/AP - Construction of 131 residential units in 3 new build blocks, associated car parking, provision of access and landscaping - application withdrawn 17 August 2011. *This scheme would have involved the removal of all existing buildings on the site and replacement with the 3 new tower blocks.*
 - A*26996/AN - certificate of lawfulness for existing use as offices, research and light industrial purposes (Class B1) together with ancillary storage/distribution (Class B8), general industrial (Class B2), and Sui Generis uses - granted 6 July 2004
 - A*26996/AL - installation of 2.4m high security fence and gates with pedestrian access to entrance of Fraser Range - permission 14 March 2003
 - In addition to the above, there have been a number of historic applications dating back to the 1960's, for masts, structures and building alterations associated with the former MoD use of the site.

7. CONSULTATIONS

- 7.1. The following consultation responses have been received following amended plans during the planning process:

Environment Agency	No objection subject to conditions
Coastal Partners	<u>Remove holding objection</u> to the proposed development, subject to the recommended planning conditions
PCC Highways	No objection subject to conditions and a financial contributions
Historic England	No objection subject to conditions

Historic England - Estates	Conditions requested in relation to the new water mains, CEMP, fencing/landscaping.
HCC Archaeology	No objection subject to conditions
HCC Ecology	No objection subject to conditions
Hampshire Constabulary Designing Out Crime Officer	Changes required to the layout however it is felt these can be dealt with via condition
Hampshire Fire and Rescue Service	No objections however it should be noted that the road layout and access arrangements are amended to comply with part B5 of the building regulations for Fire Service Access
PCC Contaminated Land	The regulatory consultations with PCC in the desk study confirm the land has not been determined as Part 2a Contaminated Land but do not consider our data holdings. Whilst the desk study appears to have found most uses from their use of other records, I am compiling a list of our data holdings so that the applicant can check that no historical uses have been omitted from their conceptual model, and at that time the CLT can confirm that the desk study, that underpins the investigative process is accepted. No objection subject to conditions
Housing Enabling Officer	In the developers original Planning Statement, it was stated that there would be no affordable housing due to viability. Nothing in their new submission indicates any change to their stance and in fact I could find no mention of affordable housing apart from the Planning Statement Addendum under 'CIL and S106', paragraph 5.30.
Landscape Officer	It is positive to see that the landscape strategy has been amended and further developed to reflect the changes of the proposal. The redesign allowing for the central amenity space is a positive amendment, which should give the development a green centre. Overall the scheme needs to be detailed further during the next stages.
Southern Water	No objection subject to conditions
Natural England	Still awaiting final comments
Tree officer	As the site is currently devoid of trees there can be no arboricultural objection to the current proposal as such. However, this is a site which has historically been composed of coastal shingle, salt marsh, grassland and scrub type environments and not featured significant tree growth - all significant trees across the area have been imported and planted around the developed sites - the caravan park and former naval

married quarters etc. It is therefore questionable whether the introduction of trees throughout this site should be encouraged or the retention and improvement of the existing distinct and diverse range of habitats promoted.

Portsmouth Cycle Forum	Object - would like to ensure cycle connectivity between any development and the proposed coastal cycle way along the sea wall, providing car-free routes north and east.
RSPB	Object due to insufficient information (received 2019, reconsulted 10/10/23 and 20/03/2024)
Havant Borough Council	No objection
Langstone Harbour	No objection
PCC Drainage	No objection subject to conditions
Emergency Planner	No objection subject to conditions
Active Travel England	Following a high-level review of the above planning consultation, Active Travel England has determined that standing advice should be issued and would encourage the local planning authority to consider this as part of its assessment of the application.
PCC Waste	Still awaiting final comments.

8. REPRESENTATIONS

- 8.1. Following the display of the site notice and public notification, 656 neighbours were consulted and 87 letters of representation were received. Following on- going discussions with Council Officers and subsequent amended plans, further re-notification processes were undertaken on 14th February 2023 and 9th October 2023. A further 57 letters were received.
- 8.2. Site Notice Displayed 8th August 2019 and 18th October 2023. Press Notice Published 24th May 2019 and 27th October 2023
- 8.3. A total of 5 letters of support were received.
- 8.4. A total of 144 objection letters have been received, inclusive of all consultations undertaken. 2 of these letters are duplicates and 10 are from the same address. The letters raised the following concern:
 - Overdevelopment of the site
 - Impact on the wildlife
 - Increase in cars on the road
 - Sewage into the sea due to lack of capacity
 - The area should be left tranquil
 - Not in accordance with the Sea front master plan
 - Increase in pollution
 - No affordable housing being proposed

- No benefit for the city
- Area was used at a time of war, should be re-stored to pre-war state
- The access is not viable, existing is too narrow or via the Fort Cumberland estate which is already grid locked during holidays and suffers from daily anti social driving behaviour
- The structures proposed, the destruction of the existing environment, light pollution, noise pollution, substantially increased traffic flow - all would contribute to a serious detrimental effect on the environment.
- Cost of the defence - who will pay for it? Not tax payers.
- This is the wrong place for a major development, particularly one that depends so much upon car use.
- Increase in air pollution
- object to the history of the ranges grade II listed buildings and surrounding areas, natural habitat of the wildlife being destroyed, it should be kept for future generations
- loss of naturist beach

9. PLANNING CONSIDERATIONS/COMMENTS

Principle of the development

- 9.1. As set out in the NPPF (paragraph 2), 'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements'.
- 9.2. In accordance with the Portsmouth Plan, when considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development set out in the NPPF.
- 9.3. Paragraph 11 of the NPPF requires that 'decisions should apply a presumption in favour of sustainable development. For planning decisions, this means: *d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless: the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'*
- 9.4. Footnote 8 states that 'this includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years'
- 9.5. Footnote 7 states 'the policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.'

- 9.6. Currently, the Council can only demonstrate 3.31 years' supply of housing land. The Council therefore cannot currently demonstrate a five-year housing land supply, and the housing policies of the Portsmouth Plan would be considered out of date in the context of the NPPF. The application is therefore to be determined in accordance with paragraph 11(d)(i) of the NPPF, which requires consideration of whether the policies protecting the heritage and nature conservation assets would provide a clear reason for refusing the development.
- 9.7. The development would result in a net gain of 134 dwellings, which would make a positive contribution towards the Council's housing needs and this must be recognised as a significant benefit of the development.
- 9.8. Policy PCS21 of the Portsmouth Plan requires a minimum density of 40dph for sites in the city. The site is approximately 6.5ha in size and incorporates 134 dwellings resulting in an average density of 20.6 dph. This density is lower than that recommended in Policy PSC21. However given the site constraints, and the land take needed to incorporate mitigation measures including the expanded SINC area, flood defences, the setting of Fort Cumberland and incorporation of historic buildings on site, it is felt that the density proposed may be appropriate in this location.
- 9.9. Acknowledging that the development would have an increased burden on local infrastructure, the development would be liable for CIL (Community Infrastructure Levy). This is a charge which the Council levy on new development in the area. The revenue collected will be to help deliver the infrastructure needed to support development in the area.

The design of the proposal and its impact on the character of the area

- 9.10. The National Planning Policy Framework (NPPF) places an emphasis on achieving sustainable development, for which good design is a fundamental element, creating better places in which to live and work and helping to make development acceptable to communities. The recently updated NPPF (December 2023) states at paragraph 131: "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve."
- 9.11. The NPPF in paragraph 135 it states that development should "add to the overall quality of the area" and "are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change". The NPPF also requires that developments be visually attractive as a result of good architecture. It also emphasises that "development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design".
- 9.12. Paragraph 135 sets out that developments should: ensure that they function well and add to the overall quality of an area; be visually attractive as a result of good architecture, layout and appropriate and effective landscaping; be sympathetic to local character and history, while not discouraging appropriate innovation or change; establish or maintain a strong sense of place and should optimise the potential of a site to accommodate and sustain an appropriate mix of development; and create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 9.13. Policies PCS23 (Design & Conservation) echo the principles of good design set out within the NPPF requiring all new development to be well designed, seeking excellent architectural quality; public and private spaces that are clearly defined, as well as being safe, vibrant and

attractive; relate to the geography and history of Portsmouth; is of an appropriate scale, density, layout, appearance and materials in relation to the particular context.

- 9.14. The Design and Access Statement (DAS) submitted with this application provides a detailed overview of the site context and factors that have influenced the design of the scheme. It is noted that the aim of the development is to provide 'a mix of homes that have the qualities that are admired and expected of a premium waterfront development: space, light and views.' The scheme has aimed to work with its existing context through the reuse of existing buildings and careful consideration of scale, orientation and design of new buildings to respect the site and surroundings. The design of the proposed new buildings has been inspired by the rectilinear, military aesthetic of the existing buildings, and materials include brickwork to blend in with existing materials, and the inclusion of contemporary detailing to allow a distinction to be made between old and new. The scheme also includes extensive landscaping proposals, taking account of the specific landscape features and characteristics of the site.
- 9.15. It is noted within the DAS that the two largest buildings on the site, whilst not formally recognised for their architectural or historic interest, have become local landmarks and the scheme has sought to retain these buildings to recognise their importance as part of Portsmouth's naval heritage.
- 9.16. The layout of the scheme has been informed by the existing layout of the site and the opportunities for making the most of sea views whilst protecting the visual connections and views from the adjacent Fort Cumberland.
- 9.17. The layout and design of the housing blocks on the northern side of the site (Blocks 1 A to D) were informed by discussions with Historic England, to protect historic sightlines from the Fort and to create a design that respected the architectural language of the larger buildings on the site to provide a coherent theme. These dwelling blocks have been designed in a double fronted, mews style.
- 9.18. The applicant has worked pro-actively with the LPA both through the course of the application discussions and the life of the planning application undertaking design and layout changes in order to address the challenges and obstacles that have arisen along the way, in order to address specific issues raised by the LPA and its consultees to ensure that the development would meet the requirements of the policies set out above.
- 9.19. The materials proposed are respectful to the existing buildings. The applicant has had surveys of the brickwork carried out to identify the existing colours and details to better inform the new building proposals. The exact details will be conditioned.
- 9.20. The resultant design is considered by Officers to be of an appropriate design and scale, which has been a result of lengthy negotiations between Officers and the applicant. Overall, the proposed development is considered to be of high-quality architectural standard in line with aims set out in the updated NPPF.
- 9.21. In reaching this conclusion significant weight has been placed on the specific design concept, the architectural detailing and high-quality materials and finishes indicated within the application drawings and supporting information.



Building 2 existing



Building 2 proposed

9.22. **Heritage Considerations**

Section 16 of the NPPF relates specifically to conserving and enhancing the historic environment. Paragraph 196 of the NPPF states that in determining applications, local authorities should take account of:

- a) The desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- b) The positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability; and
- c) The desirability of new development making a positive contribution to local character and distinctiveness
- d) opportunities to draw on the contribution made by the historic environment to the character of a place.

9.23 In relation to considering potential impacts on heritage assets, the following paragraphs are relevant:

205: When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

206: Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:

- a) Grade II listed buildings, or grade II registered parks or gardens, should be exceptional;

- b) Assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II* listed buildings, grade I and II* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.

207: where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) The nature of the heritage asset prevents all reasonable uses of the site; and
- b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) Conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) The harm or loss is outweighed by the benefit of bringing the site back into use.

208 : Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 9.24 The setting of Fort Cumberland was significantly altered during the mid to late 20th Century through residential development and the construction of Fraser Range. However, the spaced nature of the buildings at Fraser Range enable broken views through to the sea from all but the most oblique viewpoints from the Fort, which allows appreciation of the Forts connection with its wider surroundings and coastline.
- 9.25 The south-eastern portion of the application site extends within the Scheduled area of Fort Cumberland and includes historical features relating to the outer fort defences. The distribution of new buildings within the scheme has been designed to avoid encroachment on elements of the Fort defences and their immediate setting. Only limited proposals for the conservation and repair are proposed for the Scheduled part of the site, which are intended to display currently obscured historical features.
- 9.26 The height, massing and distribution of new and retained buildings have been designed to minimise effects on existing southward and south-westward views from the Fort and to permit, where possible, clear views of its landward and Solent approaches. The impact of sea defences on the setting and view lines from the Fort has also been considered.
- 9.27 There is a low potential for the presence of any archaeological remains which pre-date the construction of the first Fort Cumberland in the mid-18th century. Construction and demolition activities associated with the scheme may result in damage to buried archaeological resource.
- 9.28 Any potential impacts upon buried archaeological remains can be mitigated through conditions for archaeological supervision and recording.
- 9.29 Fort Cumberland stands as one of the most impressive pieces of 18th century defensive architecture remaining in England. Its significance is confirmed by its designation as a nationally important Scheduled Monument and Grade II* Listed Building.
- 9.30 The proposed development has been reviewed with the Councils Conservation Officer and Historic England.
- 9.31 The proposal would secure the removal of unsightly security fencing surrounding the site, and the clearance and control of vegetation at its the southern entrance, as well as repair

and conservation of a modest element of the scheduled monument which survives within the development area. All of which are welcome aspects of the proposal.

- 9.32 The applicant's interpretation of the impact of the scheme on the setting of the Fort is set out in their heritage statements. Consideration is given to the relationship of the views outwards from the Fort to the Solent. Bearing this in mind, it is notable that, the existing buildings on the site *already* disrupt the historic lines of sight and setting of the scheduled Fort. The new build elements of the scheme would inevitably intensify this, but it is acknowledged that, within the lengthy determination timeframe of this application, the scheme has gone through a significant re-design in terms of siting/ orientation, footprint, scale and height of the proposed new build elements of the proposal - the purpose of which has been to ameliorate/ mitigate the visual impact of the scheme on the setting of the Fort.
- 9.33 In contrast with previous proposals, and earlier iterations of the existing scheme for the site, the form, materiality and overall design language of the new build elements of the scheme are considered to complement/harmonise satisfactorily with the appearance and aesthetic of the existing large scale 20th century R&D buildings still present on the former Range. Arguably this also makes some (albeit relatively modest), contribution to mitigating the impact of the proposal on the setting of the Fort.

World War II Anti-Tank Defences at Eastney Beach (listed March 2010)

- 9.34 The 'Tank Traps' at Eastney have already been the subject of their own dedicated Listed Building Consent (LBC) Application (19/01704/LBC) for their: "Removal and reinstatementto facilitate new coastal defence and coastal path works". This application thoroughly considered the significance both of the structures, and of the merits of their (temporary) removal, storage and re-siting back to their original locations. Consent was granted for these works in July 2022. Conditions attached to this consent, ensures that no works to the Listed tank traps shall take place until such time as the application under consideration here (19/00420/FUL) *or* any subsequent planning application associated with the development of Fraser Range has been approved.
- 9.35 The significance of the Traps has been considered at length in the deliberations associated with this application, (and are not repeated here). The granting of a separate consent for these works has also effectively established the principle of their acceptability, and to an extent 'disaggregated' them (but not their timing) from the wider development proposals under consideration here.
- 9.36 Notwithstanding this, it is acknowledged that the grant of permission for this scheme *would* alter the backdrop (and therefore the setting of) the tank traps - introducing contemporary development of a significantly enhanced scale and presence into their immediate northern setting - visible in views (north) from both the sea and shoreline. This would appreciably alter the existing (and historic) setting of the asset, in a manner which it is difficult to credibly argue is positive.
- 9.37 The application has been supported by a number of documents in relation to archaeology and heritage. These documents have been received and are considered acceptable by Historic England and the mitigation measures outlined therein will be secured by condition. Overall, and noting the special regard that heritage requires, it is considered that the scheme represents a sensitive development in the context of the heritage designation and assets in and near this site and is in accordance with local and national policy in respect of heritage.

Impact on the residential amenity and standard of accommodation

- 9.38 Policy PCS23 lists a number of criteria against which development proposals will be assessed, including the need to protect amenity and the provision of a good standard of living environment for neighbouring and local occupiers, as well as future residents and users of the development. In terms of residential amenity, there are two elements for consideration, these being the impact of the development on existing neighbouring residents and secondly, the impact on future occupiers of the development.
- 9.39 There are no residential properties directly adjacent to the site. The nearest residential accommodation is at the caravan park, and there are a number of caravans located on the east side of this site. There is a footpath separating the application site from the caravan site. Overall, it is considered that the proposal would not result in any significant direct adverse impacts on the amenity of adjoining occupiers.
- 9.40 Policy PCS23 of the Portsmouth Plan requires new development to provide a good standard of living environment for future occupiers and Policy PCS19 states that dwellings should be of a reasonable size appropriate to the number of people that they are designed to accommodate. The Nationally Described Space Standards (NDSS) provides guidance on acceptable sizes for dwellings, including room sizes, depending on the number of proposed occupants. The rooms within the apartments would all provide a good standard of accommodation. The proposed floorplans show that the units would all have a good standard of light and outlook from windows to habitable rooms. Overall, it is considered that the development would provide an acceptable standard of living environment for future occupiers.
- 9.41 It is not considered the proposal would unduly impact upon surrounding residential amenity.

Highways and Parking

- 9.42 In terms of parking, the Portsmouth City Council parking standards are set out in the 'Parking Standards and Transport Assessments' Supplementary Planning Document (SPC) and are as follows: - 1-bed - 1 parking space plus 1 cycle space; - 2 or 3-bed - 1.5 parking spaces plus 2 cycle spaces.
- 9.43 The development will provide 147 allocated car spaces, and 49 unallocated car spaces with a provision of 28 visitor spaces which is compliant with the SPD. EV charging points are also being provided.
- 9.44 The highways department have reviewed the application. Since the LHA previous response, the applicants have provided the requested traffic survey data. This has been reviewed and the LHA are content with results and therefore would request no further information in this regard.
- 9.45 After reviewing the available traffic modelling, it is considered the development would not result in an unacceptable or severe impact to the highway function that would meet the threshold of Paragraph 111 of the NPPF and therefore no objection is raised in terms of highway impact.
- 9.46 In terms of parking provision, the revised plan outlines that the development would provide 196 spaces (147 allocated and 49 unallocated) with a further 21 spaces for visitors. This parking provision would be in line with Portsmouth Parking Standard (2014) and therefore no objection would be raised in terms of provision. It is noted that Paragraph 111E outlines that development should provide electric charging facilities, the applicants have indicated that they would comply with Part S of Schedule 1 of the building regulations, which sets out-

- *In developments where there are the same number of associated parking spaces as, or more associated parking spaces than, there are dwellings, then each dwelling must have access to electric vehicle charging point.*
- *Any remaining residential spaces should have cable routes for future electric vehicle charge points.*

9.47 With regards to Cycle Storage 270 spaces would be provided with an addition of 27 spaces would visitors. Whilst it is recognised the Portsmouth Cycle Forum (PCF) has highlighted the development lacks the provision of Cargo bike storage, whilst this would have been beneficial, the absence of this provision would not be sufficient to object to the application.

9.48 Paragraph 109 of the NPPF seeks development located in sustainable locations, limiting the need to travel and offering choice of transport modes to reduce congestion and emission and improve air quality and public health. National Policy also promotes the use of walking and cycle over private car. It is considered that the development should contribute to the improvement of non-motorised infrastructure with improvements identified within the Local Cycling and Walking Infrastructure Plans. A contribution of £75,000 would be requested for these improvements.

9.49 Furthermore, it is considered that the measures contained within the Travel Plan are limited, it would be expected that financial measures should be included to shift residents away from the private motor vehicle and therefore if your minded to approve the application, a revised Travel Plan should be conditioned that included financial measures to increase modal shift.

9.50 It is considered that subject to the conditions and contributions, the proposal would not result in any unacceptable highway safety risk or severe impact to the function of the network.

9.51 Ecology (and Environmental Impact Assessment (EIA))

Environmental Impact Assessment

EIA Chapter Topic	Conclusion and Mitigation
Socio Economic	<p>The development provides an opportunity to boost the local economy by utilising unused space and creating high quality, premium homes for wealthier individuals. This will help sustain, but may also provide further opportunity, for local community, retail and leisure facilities.</p> <p>No mitigation measures are required as the impacts identified are either neutral or beneficial.</p>
Landscape and Visual Impact Assessment	<p>Post construction the development is expected to sit comfortably within its setting. The proposals concentrate the main cluster of new buildings around the eastern end of the site where most of the existing buildings are currently located. The physical landscape is changed with the introduction of new coastal defences and new buildings. At the same time</p>

	<p>areas of existing and new landscape around the site are brought into a positive new use and management regime. The changes to the physical landscape are generally assessed as minor or moderate beneficial effects; this is consistent with the objective to retain those features of interest on the site and to create a positive new residential setting.</p> <p>With the predicted degrees of effect no further 'mitigation' as such is envisaged; there will however be further design stages where the effects can be reviewed and additional enhancements made if this is deemed appropriate</p>
Heritage	<p>The creation of a suitable gap between Buildings 6 and 5, with an aligned sight-line between residential units 1A and 1C/D would enhance direct visual connection between the Fort Ravelin and the Solent. A reduction in height of Building 3 would enable clear views of the Solent approaches from the south-west bastion of the Fort. Subject to consultation with Historic England, the changed baseline conditions of the Amended Proposed Development, and their effects, have been partly mitigated by design and changes to the Amended Proposed Development masterplan.</p> <p>On this basis it can be concluded that, there would not result in any changes to residual significant effects</p>
Transport	<p>The development proposals will have no material impact on the local highway network or surrounding areas. The accessibility of the site is improved through the proposal of a new shared foot/cycleway which in turn connects the site to the existing pedestrian and cycling route and enhances the safety of the existing access routes.</p>
Marine Ecology	<p>No significant residual impacts on marine ecological features are anticipated as a result of the construction and operation of the proposed development.</p> <p>The scheme design has been developed with regards to the existing ecological features on site. The ecological</p>

	<p>mitigation and enhancement measures which are embedded within the scheme design form an integral part of the proposed development and have been designed specifically to avoid or otherwise reduce ecological effects. The assessment of ecological impacts has taken these embedded mitigation and enhancement measures into account, in relation to each important ecological feature.</p>
Terrestrial Ecology	<p>The site at Fraser Range and its surroundings support a variety of features of ecological value. Given this, the scheme incorporates mitigation built into the design.</p>
Contaminated Land	<p>Although impacts and risks of the development have been identified for both the construction and operational phase, these impacts can be mitigated to reduce the impact to the construction and operational phases of development.</p>
Minerals and Waste	<p>Following review of all the available data available thus far for the site, it is considered that potentially economically viable mineral resources do not exist on site.</p> <p>Mitigation measures are not considered to be required for the site as we do not consider there to be a viable resource on site and therefore the impact is considered negligible.</p>
Noise and Vibration	<p>Based on the results of the acoustic model and the assumed building fabric constructions, the proposed Lowest Observed Adverse Effect Level for internal noise is likely to be met during both the daytime and the night-time periods across the site. The impact would be up to minor adverse.</p> <p>With mitigation, it is expected that the significance of the noise and vibration effects of the construction phase of the proposed development, could be up to moderate adverse. However, further assessment of construction noise and vibration mitigation may be required as appropriate when detailed method statements and the construction programme are available.</p>
Air Quality	<p>It is concluded that there are no air quality constraints to the Proposed</p>

	Development of the site and no further air quality assessment is required.
Hydrology	It is considered that the release of the latest hydraulic model for the area (2018 Eastern Solent model) and subsequent change to the Environment Agency's Flood Zone map has no implications on the design recommendations set out in the 2018 FRA, and subsequently the ES 2019. Furthermore, the 2018 model indicates that all built residential development is still located within an area outside the defended 1 in 1000 (0.1%) annual probability flood extent (assuming the defences function as designed); therefore, the development proposals are still safe and do not increase flood risk to third parties

- 9.52 The above table provide a summation of the findings of the submitted Environmental Statement.
- 9.53 The site is bordered by three Sites of Importance for Nature Conservation (SINCs), one at Fort Cumberland , one at land west of Fort Cumberland and one at Eastney Beach.
- 9.54 The site has been subject to a variety of environmental surveys to inform the layout of the proposed development, biodiversity mitigation requirements and landscape proposals.
- 9.55 Policy PCS9 includes objectives of protecting the nature conservation value of Eastney Beach, as well as protecting undeveloped areas and improving the quality of open spaces.
- 9.56 With regard to the SINC land (Land north and west of Fort Cumberland SINC), this SINC is known to be rich in plant species, with more than 100 species having been recorded, including several uncommon species. The access road works would result in the loss of a strip of vegetation within the SINC and its car park of approximately 10m wide. Just under half of the area affected is occupied by car park land, surfaced with compacted ballast and soil with no vegetation other than long grassland and scrub on low earth banks. The eastern end of the affected area close to the main gate to Fraser Range was noted to be severely trampled.
- 9.57 Overall, the vegetation communities within the part of the SINC land that would be lost by the proposed road enhancements were concluded to be predominantly of low intrinsic botanical value. The results of the vegetation survey recorded no species of national conservation importance. The survey results also noted that all of the vegetation in the survey area bore evidence of significant degradation as a result of factors such as lack of management, past disturbance and recreational trampling.
- 9.58 The presence of Little Robin, a Red Data Book County Notable wildflower species, at the site entrance is noted in the Environmental Statement Addendum (Stantec, January 2023), and has recently been flagged up by a local botanical expert, who has monitored the presence of this species for the last two years. The detailed botanical survey work is now out of date, however the updating walkover survey and other work undertaken at the site by the Applicant's Ecologists has monitored the status of the habitats present in the interim. The updating work and subsequent ecology updates/addenda to the Environmental Statement have been completed to a high standard in 2019, 2021 and 2023.

- 9.59 It is recommended that the detailed botanical work is updated under a pre-commencement condition to ensure that any discrete habitat changes can be detected and included in the Detailed Biodiversity Mitigation and Environmental Plan (BMEP), which should also be conditioned. There are also a number of other ecological surveys at the site that require updating such as a protected species survey, and would suggest that these are picked up in the same way to ensure mitigation proposed in the detailed BMEP is based on the most up-to-date information possible.

Impact on birds

- 9.60 A field survey of the intertidal areas surrounding the site was carried out between September 2016 and March 2017. The survey found that the majority of waterbird interest was focused on the estuarine/intertidal areas north/north-west of the site (Lock Lake and Milton Lake), with no regular use of the shoreline adjacent to the site by bird species included in the SPA and Ramsar citations. These areas adjacent to the site were mainly used by gull species, although flocks of shorebirds (e.g. turnstone, oystercatcher and sanderling), were sometimes present.
- 9.61 Due to the patterns and distribution of waterbird species, the applicants Environmental Statement concluded that direct impacts resulting from the proposed development would be considered unlikely. Impacts were more likely to be associated with increased recreational use by new residents of the accessible areas of the coastline in the local area beyond the site boundary.
- 9.62 A wintering bird survey was undertaken in 2016/17 and 2022. The updated survey recorded a total of 11 waterbird species, all of which had been recorded previously.
- 9.63 The pattern of sanderling distribution in the 2022 visits was very similar to that recorded in 2016/17 with the shingle along Eastney beach being favoured as well as some areas of shingle along the mouth of the estuary east of the Site. These areas of foreshore habitat represent suitable foraging areas for sanderling, with the birds observed spending virtually all their time foraging along the tideline immediately adjacent to the water's edge. As in previous surveys, sanderling were not recorded roosting or loafing in these areas but were distributed as loose flocks along the beach, constantly moving up and down both on foot and in flight (foraging activity).
- 9.64 During the 2022 surveys, the birds on the beach were again observed being flushed by existing human and pet dog activity on the beach. Species such as sanderling continued to use the beach, in spite of the existing levels of human activity, with flocks observed using the lower parts of the beach (waterline) for foraging.
- 9.65 The development includes the provision of a new coastal path, which would help to provide a clear route for the public, drawing people off the beach and therefore helping to dilute use of the wider coastal areas.
- 9.66 A Construction Environmental Management Plan (CEMP) is required to be approved prior to commencement of development. This will need to include measures to avoid or suitably mitigate for noise / vibrational and visual impacts which may otherwise result in a temporary adverse effect on the bird species associated with the European Sites over the duration of the site clearance and construction period.
- 9.67 The applicant has confirmed that the residual impact of increased recreational pressure on the SPA would be addressed through financial contribution towards a Solent Wide recreational mitigation strategy (Bird Aware), secured through planning obligation.

Marine ecology

- 9.68 This focuses on benthic habitats and species (benthic refers to habitats and species occurring at the sea bed). Impacts on fish and marine mammals were scoped out of requiring detailed assessment due to the limited nature of the proposed marine works.
- 9.69 The development overlaps with the Solent and Dorset Coast potential Special Protection Area (SPA). This SPA is proposed to protect foraging habitat for tern species. The revetment footprint is also within approximately 10m of the Solent Maritime Special Area of Conservation (SAC), which is designated for a range of marine habitat features. There is also a slight overlap of the site with the Chichester and Langstone Harbours Special Protected Area (SPA) and the Chichester and Langstone Harbours Ramsar site.
- 9.70 A project specific intertidal Phase 1 habitat survey was undertaken in August 2018. This used a pole mounted underwater camera to survey habitat and found that the majority of the shoreline in the vicinity of the development consists of barren shingle or gravelly sand with no fauna or algae species observed. The survey found much of the shoreline to be impoverished and of low ecological value. Some areas were colonised by a range of commonly occurring marine species, which are considered typical of habitats found in the wider area. No protected habitats or species were recorded.
- 9.71 Marine impacts:
- Change to benthic habitats and species as a result of construction activity;
 - Assessed as negligible because the effects would be highly localised and temporary.
 - Non-native species introduction and spread during construction;
 - Assessed as negligible subject to following best management practices and adhering to Marine Biosecurity Plan.
 - Habitat change as a direct result of the footprint of the revetment on benthic habitats and species.

The marine impacts have been assessed as negligible - whilst habitats under the revetment would initially be lost, sediment profiling is expected to create similar habitat to that which is already covering the majority of the area (i.e. shingle). The sediments placed as part of the profiling work is also expected to be colonised relatively rapidly.

- 9.72 Works within the Marine area required a licence from the Marine Management Organisation. It is down to the applicant to take the necessary steps to ascertain whether their works fall below the Mean High Water Springs level and the need for a licence.

Biodiversity Net Gain

- 9.73 The BNG metric calculation was updated as per the request of the County ecologist. The updated report and metric confirms a 33.52% gain for area-based habitats and 0.12 new units of hedgerow habitat.
- 9.74 The proposed gain will be achieved via off-site compensation, in which the conditions of habitats within the adjacent Land West of Fort Cumberland SINC will be uplifted to provide off-site compensation.
- 9.75 Incorporated into the legal agreement will be a condition to ensure that the off-site compensation is implemented and a 30 year management plan is secured as sought in the legislation.
- 9.76 A condition requiring a detailed Biodiversity Mitigation and Enhancement Plan (BMEP) is proposed.

Appropriate Assessment

- 9.77 Pursuant to the Conservation of Habitats and Species Regulations 2017 (as amended) and the Conservation of Offshore Marine Habitats and Species Regulations 2017 (as amended), all plans and projects (including planning applications) which are not directly connected with or necessary for the conservation management of a habitat site, require consideration of whether the plan or project is likely to have significant effects on that site.
- 9.78 Where the potential for likely significant effects cannot be excluded a competent authority must make an appropriate assessment ('AA') of the implications of the plan or project for that site, in view the site's conservation objectives. The competent authority may agree to the plan or project only after having ruled out adverse effects on the integrity of the habitats site. where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest and if the necessary compensatory measures can be secured.
- 9.79 The Council is the competent authority in this case and the applicants have submitted a Shadow Habitat Regulations Assessment (HRA) to assist the LPA in assessing the project.
- 9.80 The relevant protected sites for the purposes of AA forming part of the National Site Network (formerly 'European sites') are those within a 10km Zone of Influence, taking a precautionary approach. These are:
- Solent Maritime SAC
 - Chichester and Langstone Harbours SPA and Ramsar
 - Solent and Dorset Coast SPA
- 9.81 The submitted Shadow HRA confirms that the development project would give rise to likely significant effects. There would be additional recreational pressure and human disturbance from the increased population the proposed development would bring within the 5.6km of National Site Networks and International Sites as a result of the increased nutrient loading from the proposed development. An AA is therefore required by the LPA as competent authority and a consideration of mitigation measures proposed by the applicant and whether these would result in no significant effects upon the integrity of these sites, where alone or in combination with other plans and/or projects in the area.
- 9.82 For the recreational pressures the application of the measures in the Solent Recreation Mitigation Strategy 2017 is proposed to be secured by a financial contribution based on the proposed number of residential homes. This would be secured by way of a S106 legal agreement.
- 9.83 For the nutrient mitigation, this will be secured by the applicant's participation in the Hampshire and Isle of Wight Wildlife Trust's nutrient reduction programme, with a financial contribution towards nitrogen credits being proposed. This would be in accordance with the Council's Nutrient Neutral Mitigation Strategy for New Dwellings (2022) and would also be secured by S106 legal agreement.
- 9.84 The Nutrient Neutrality calculations are still required to be agreed by all parties. It is anticipated that this can be agreed post committee as part of the S106 negotiations.
- 9.85 There remain some outstanding issues that need to be addressed with Natural England in relation to the assessed recreational disturbance. Again, it is anticipated that these can be agreed and resolved post-committee, with the necessary mitigation secured.

9.86 Subject to the necessary mitigation and compensatory measures being secured by S106 planning obligation as recommended above, the Council is able to conclude that the development would not harm the integrity of the National Site Network or Ramsar site and can proceed subject to other planning matters being satisfactorily addressed.

Proposed Sea Defences

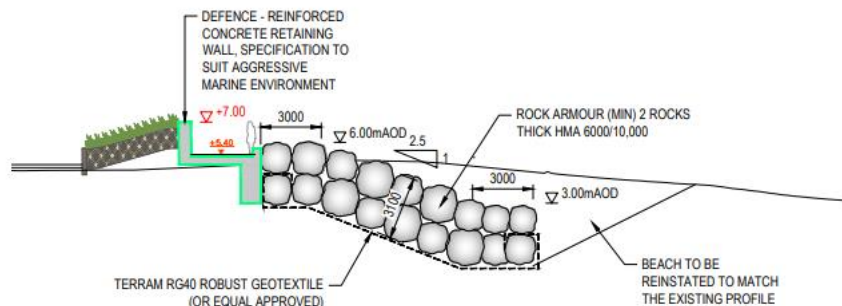
9.87 The proposed coastal defences are very important as they are required to make the proposed development acceptable. There have been years of discussion between PCC, Coastal Partners and Environment Agency on these details.

9.88 The applicant is proposing to deliver new sea defences to the southern frontage, including rock armour and a concrete wall to the western end of the site, to reduce the risk of wave overtopping. It is less clear what is proposed at the eastern end of the site's southern frontage (east of the 'Eastern Revetment' referred to within Appendix H of the FRA). Appendix H and Drawing 38045/4001/003 Rev B in the FRA suggest that the proposal is to retain the existing defence structure and add a new landscaped embankment landward.

9.89 The Environmental Agency previously asked for clarification of the condition of any sea defence structures to be retained as part of the development, to ensure the residual life is sufficient. It is their understanding that the eastern end of the frontage may not have been inspected and it is not clear if this section is capable of repair and subsequent maintenance or will require replacement. It is understood that the applicant proposes to address this through the Asset Management Strategy to be developed once planning permission is granted. The total cost to the developer of the required flood defence management work therefore remains uncertain.

9.90 The applicant has nevertheless agreed to take responsibility for the long-term maintenance and responsibility for the defences including the beach management for the lifetime of the development. This will be secured via a S106 agreement.

9.91 An overtopping assessment indicates that the site is at risk of flooding from waves overtopping the existing coastal defence line. The new coastal defence line, as part of the development proposals, will be constructed to reduce the risk of wave overtopping at the site.



9.92 It should be noted that the solution proposed does not provide a complete barrier to wave overtopping (for ecological and heritage reasons) but rather seeks to reduce the potential risk of flooding from wave overtopping to a risk level which is considered to be 'low'. Floodwater volumes from overtopping are managed within the proposed surface water drainage strategy.

9.93 In the unlikely event that the existing coastal defences at the site fail, rapid inundation is unlikely due to ground levels rapidly rising inland (northwards) from the defence line. As such, the residual risk of a breach of the proposed coastal defence line is considered to be 'low'. The proposals for the scheme are for upgrading and replacement of the coastal defence line

and therefore the residual risk of a breach of the new defence line will be further reduced. The draft Asset Management Strategy and Beach Management Strategy will be developed further throughout detailed design (and secured by condition) to ensure the coastal defence line and beach remains in good condition.

9.94 Overall the following mitigation measures are being implemented to ensure the development is safe through a number of measures -

- A new coastal defence line along the southern frontage is included in the development proposals. The design of the new coastal defence line will reduce the risk of wave overtopping at the site to a level which is considered to be 'low'. Some overtopping will be maintained post development for heritage and ecological reasons and is managed as part of the proposed surface water drainage strategy.
- Construction of a good condition coastal defence line along the southern frontage will reduce the risk of a breach flood event.
- Finished floor levels to be set a minimum of 5.38m AOD (600mm above the design 1 in 200 (0.5%) AP tidal flood level of 4.40m AOD for the year 2125 for all new residential buildings). Where existing buildings cannot be raised to an appropriate freeboard allowance, flood resilient measures will be incorporated to protect buildings up to the target threshold level of 5.38m AOD.
- Raising on site roads to a minimum of 4.48m AOD (above the design 1 in 200 (0.5%) AP tidal flood level of 4.40m AOD for the year 2125 using higher central allowance). The onsite road and paths range from 4.48mAOD to 5mAOD.
- A Surface Water Drainage Strategy has been developed in accordance with the national and local policy requirements, and best practice. This can be found in Appendix H.1 of Chapter 11 Flood Risk and Drainage in the ES Addendum. The design aims to mitigate the risk of surface water flooding at the Amended Site for all events up to and including the 1 in 100 (1%) annual probability rainfall event including 45% climate change allowance.

9.95 A finalised Asset Management Plan and Beach Management Plan will be completed during the detailed design stage and secured by condition.

9.96 The provision of new flood defences is also supported by Policy PCS 12 of the Portsmouth City Local Plan which encourages maintaining and improving the cities flood defences, which the provision of the onsite defence would do.

Landscape and visual impact (see also EIA above)

9.97 The site has a sense of informal remoteness in contrast to other areas of the seafront. This would be changed with the presence of development. The impact of this needs to be balanced against the benefits of the scheme.

9.98 The current site does not provide any recreational or public access or social function and, while some users have praised the remoteness of this stretch of beach as a benefit it is considered overall that the condition of the site makes adjoining areas of public open space less attractive to the majority.

9.99 The site is visible from many external viewpoints, including from surrounding residential areas, from the adjacent beachfront and from longer distance views both on land and from the sea.

9.100 The scheme includes retention of historic features and reestablishment of semi natural habitat vegetation cover. The development will not significantly impact on the SINC public open space, existing footpaths and beach.

- 9.101 A new footpath will create new view of Fort Cumberland, and new, dramatic coastal views. The proposed beachfront walkway is in line with the objective of Policy PCS13 to improve Southsea seafront for recreational users, visitors and wildlife. The proposed walkway will have potential health benefits increasing the opportunity for formal and informal exercise in line with the second point of PCS14, and promote walking and cycling in line with PCS17. The proposed walkway is also in line with the objective in the 2013 Seafront Masterplan SPD to create a new route around Fort Cumberland to enable walkers to access this part of the coast at high tide.
- 9.102 A condition will be imposed for a detailed landscaping scheme to be submitted.

Viability

- 9.103 A viability report was submitted as part of the original submission to demonstrate affordable housing would not be viable as part of the development. The report was reviewed independently. It was concluded that the scheme as presented was not sufficiently viable to support affordable housing.
- 9.104 Due to the years since the original viability report was reviewed, an updated report was requested and submitted. This report will be independently reviewed however this has yet to be concluded. From assessment already carried out it is highly unlikely that the independent review outcome of the report will be different and if possible, verbal update will be provided at the Committee meeting.

9.105 Sustainable Design and Construction

- 9.106 An Energy Statement has been submitted in support of the planning application. In accordance with the aspirations of Policy PCS15 of the Local Plan, the new development should achieve a minimum of a 19% improvement in the dwelling emission rate over the target emission rate as defined in The Building Regulations for England Approved Document L1A: Conservation of Fuel and Power in New Dwellings (2013 Edition).
- 9.107 It is worth noting that on June 15 2022, Part L was updated with the mandate to improve the current minimum standard for carbon emissions by 31%.
- 9.108 All new apartment blocks will utilise flat roof construction methods to allow for installation of biodiverse roofs (brown roof) across two different floor levels which will benefit top floor apartments with an element of soft landscaping. These brown roofs will also contribution to improve the ecology on the site.
- 9.109 The buildings are being designed so that their fabric (walls, floors and roofs) have low U-values to reduce thermal heat loss. The flat roofs of the buildings allow for roof-mounted renewable technologies. The windows will be high performance to minimise heat loss and maximise natural light. The buildings will also be required to be constructed to the latest building regulations.
- 9.110 Overall, the proposed development will comply with the sustainable design and construction standards set out within Policy PSC15 of the Local Plan.

CIL and S106

- 9.111 Part 11 of the Planning Act 2008 provides for the introduction of the Community Infrastructure Levy (CIL). The detail of how CIL works is set out in the Community Infrastructure Regulations. CIL is intended to be used for general infrastructure contributions whilst s106 obligations are for site specific mitigation. The regulations have three important repercussions for s106 obligations:

- Making the test for the use of s106 obligations statutory (S122);
 - Ensuring that there is no overlap in the use of CIL and s106 (S123); and
 - Limiting the use of 'pooled' s106 obligations post April 2014 (S123).
- 9.112 Portsmouth City Council introduced its Community Infrastructure Levy (CIL) charging schedule in April 2012 with a basic CIL rate of £105 per sqm. The CIL regulations require indexation to be applied to this rate annually using the RICS CIL Index and the 2024 basic rate is £179.39 per sqm. Most new development which creates over 99sqm of gross internal area or creates a new dwelling is potentially liable for the levy. However, exclusions, exemptions and reliefs from the levy may be available.
- 9.113 Based on the figures provided by the applicant, the indicative CIL liability is £2,790,644.75.
- 9.114 This could be pooled and put towards funding improvements in primary care, provision, policing, education and other infrastructure.
- 9.115 The applicant has indicated its willingness to enter into a legal agreement under s106. Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the tests that they are necessary to make the development acceptable in planning terms. They must be:
- necessary to make the development acceptable in planning terms;
 - directly related to the development; and
 - fairly and reasonably related in scale and kind to the development.
- 9.116 These tests are set out as statutory tests in regulation 122 (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework. These tests apply whether or not there is a levy charging schedule for the area.
- 9.117 As such the applicant has indicated a willingness to make contributions and those that are considered to meet the statutory tests are:
- Off-site improvements to SINC (including management / maintenance)
 - Long-term management of heritage assets (Heritage Management Plan) (tank traps)
 - Provision to secure mitigation in respect of the net increase in Nitrate load (TBCKg/TN/yr) resulting from the proposed development in line with the City Council's Interim Nutrient Neutral Mitigation Strategy. Mitigation to be calculated by the number of residential units - Total to be agreed
 - Provision to secure a contribution towards setup/monitoring of Travel Management Plan £5,000. The Travel Plan itself to be secured by Planning Condition;
 - Provision to secure the agreement and implementation of an Employment & Skills Plan;
 - Project Management/Auditing Fee £620 (Employment and Skills Plan). To be controlled by condition.
 - Coastal defence management and maintenance
 - £75,000 for improvement to sustainable infrastructure within the vicinity (Highland Road and Festing Road)

Human Rights and the Public Sector Equality Duty (PSED)

- 9.118 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

- 9.119 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.120 The proposed development is fronting onto a naturist beach which is used by many people throughout the year. It provides a less commercialised area for people to use. Notwithstanding the proposed development, the beach can still be used as a naturist beach and others who wish to use the beach.
- 9.121 Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

10 Conclusion and Planning Balance

- 10.1 The proposed development would bring forward the regeneration of the site. As a previously developed site which is currently vacant and underutilised, the proposed development for housing is supported.
- 10.2 There is a pressing need for housing, and the Council has an extremely challenging housing delivery target. The Council is currently not meeting the Government's Housing Delivery Test and the 'presumption in favour of sustainable development' and the 'tilted balance' applies. The proposal would make a significant contribution to housing supply and contribute to meeting the needs of the City.
- 10.3 The design principles set out in the scheme are welcomed. Utilising the existing building and complementing them with new development is a positive. The height and massing of the development has been assessed in relation to its impact from a wide range of viewpoints and has been found to be acceptable and justified.
- 10.4 Paragraph 202 of the NPPF notes that, where the overall net balance of heritage considerations is that any harm is less-than-substantial, "this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use."
- 10.5 Given the distance and orientation to the nearest residential properties, and the inclusion of appropriate mitigation measures, the proposal would not result in any significant material impact in terms of overlooking and privacy.
- 10.6 Officers have taken into account the benefits of the scheme and weighed these against the impacts of the proposals. The overall conclusion in respect of the development is that it results in sustainable development contributing to the housing supply for the city and bringing a derelict site into beneficial use.

RECOMMENDATION

Grant planning permission subject to conditions and a s106 Agreement.

Delegate authority to the Assistant Director for Planning and Economic Growth to finalise the wording of the draft conditions (listed below) and finalise the s106 agreement in line with the Heads of Terms listed above.

Draft Conditions (Headings)

1. Time limit
2. Approved Plans
3. Material samples
4. Boundary treatments
5. Detailed landscaping scheme including 'brown roofs'
6. Landscape implementation timetable
7. Finished floor levels
8. Contamination - desk study
9. Contamination - prior to occupation
10. Pre-commencement survey work (ecology)
11. Detailed Landscape and Ecological Management Plan (LEMP)
12. Detailed Construction Environmental Management Plan (CEMP)
13. Biodiversity Mitigation and Environmental Plan (BMEP)
14. Detailed lighting plan
15. Recreational Impacts
16. Residual risk of flooding
17. Flood risk assessment - development to be carried out in accordance with the revised FRA and Summary Statement
18. Surface water drainage scheme
19. Final Beach Management Plan
20. Asset Condition and Management Strategy
21. Travel Plan
22. Monument Management Plan
23. Conservation Management Plan
24. Building recording prior to conversion or demolition
25. Flood Warning and Emergency Plans
26. Public sewer connection
27. No development within 5metres of the public sewer without consent.
28. No soakways/swales within 5m of public water distribution mains
29. Refuse and recycling details including collection points
30. Cycle parking
31. Car parking
32. Piling method statement
33. Water efficiency
34. Sustainability measures

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Agenda Item 5

24/00065/FUL

WARD: ST JUDE

60 ELM GROVE SOUTHSEA PO5 1JG

THE CONTINUED SITING OF SHIPPING CONTAINER FOR USE AS STORAGE WITH RETENTION OF WOODEN ROOF AND EXTRACTION SYSTEM AND CONSTRUCTION OF 2M FENCE AT THE REAR OF THE PROPERTY (PART RETROSPECTIVE)

LINK TO ONLINE DOCUMENTS;

[HTTPS://PUBLICACCESS.PORTSMOUTH.GOV.UK/ONLINE-APPLICATIONS/APPLICATIONDETAILS.DO?ACTIVETAB=DOCUMENTS&KEYVAL=S7EW PVMOFOL00](https://publicaccess.portsmouth.gov.uk/online-applications/applicationdetails.do?activetab=documents&keyval=s7ewpvmofo00)

Application Submitted By:

Mrs Francelita Balbido on behalf of Town Planning Expert

On behalf of:

Ms Ewa Dyktynska on behalf of The Sourdough Bakehouse Eatery Ltd

RDD: 15th February 2024

LDD: 11th April 2024

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought to Planning Committee due to 6 objections received.

1.2 The main issues for consideration in the determination of the application are considered to be as follows:

- The principle of development;
- Design and Impact on the character and appearance of the conservation area;
- Impact on residential amenity;
- Highway Implications;
- Waste

2.0 SITE AND SURROUNDINGS

2.1 The application relates to the rear alleyway access of a parade of shops, located on Elm Grove, in Southsea Portsmouth. Properties No.44 - 62 (evens) benefit from this rear access, which links Pelham Road to Woodpath. Elm Grove is a busy high street, whilst Woodpath and Pelham Road are relatively quiet residential streets.

2.2 The application site is 'The Sourdough Bakehouse' , a "traditional English kitchen and coffee shop". The site is in Class E use, which is the predominant use of the shops on the relevant parade on Elm Grove.

2.3 The rear alleyway access services a number of commercial units, and some residential units. The application site is directly opposite 4 Woodpath, which is a residential dwelling, with garden access from the service road to the rear of the commercial units.

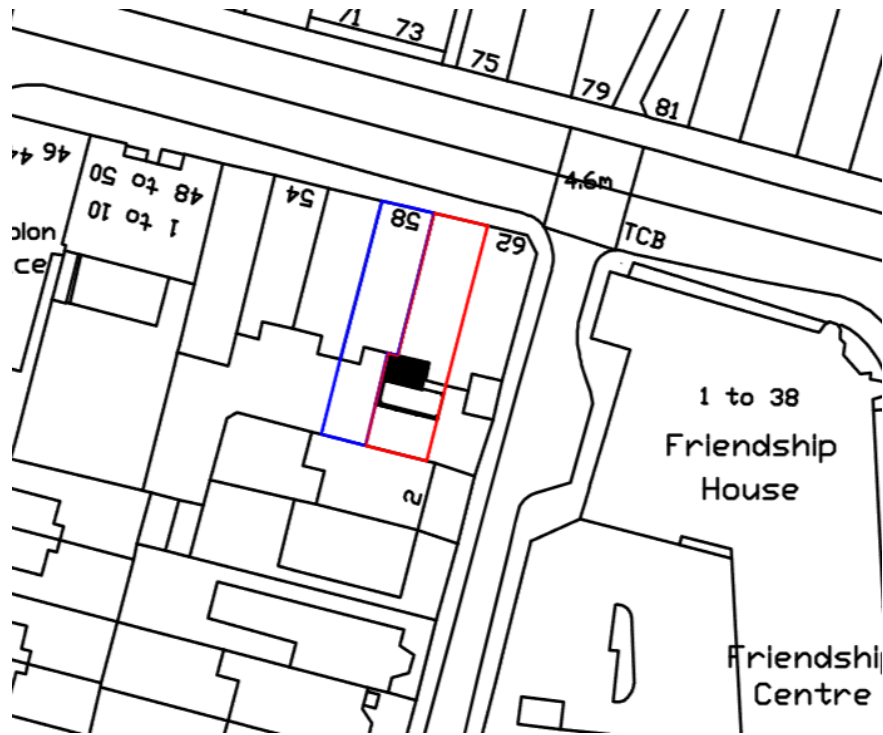


Figure 1 - Site Location Plan

3.0 THE PROPOSAL

- 3.1 Planning Permission is sought for the retention of a shipping container, the retention of a wooden roof structure, the retention of an extraction system, and the construction of a 2m panelled fence at the rear of the unit.
- 3.2 The proposed fence is 2m in height and adjoins the approved (but not yet built) fence at 62 Elm Grove. It would be constructed from wood.
- 3.3 The shipping container would have a wooden roof attached, in order to prevent water damage during rain.
- 3.4 Lights are proposed 'at the back' although it is unclear where these are/would be sited. At site visit, no evidence of these existing was found (although this was carried out in daylight).

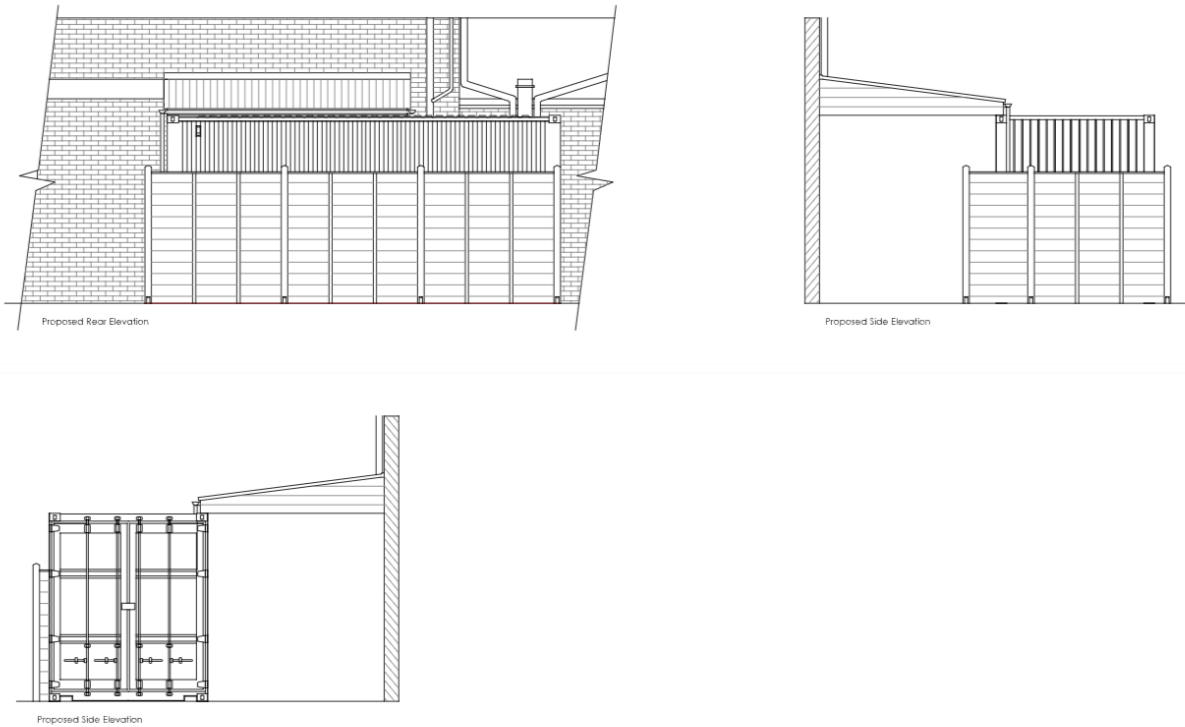


Figure 2 - proposed elevations

4.0 PLANNING HISTORY

- 4.1 23/01320/FUL, a similar application at 62 Elm Grove (the units eastern neighbour), was approved on 14 February 2024 under delegated powers. That application received over 50 supporting comments. The application sought to regularise the siting of the shipping container. It was judged that the fence, in conjunction with the shipping container was a suitable mitigation for the storage of waste and extra space for business. Whilst this application has no weight in the determination of this application, both sites have broadly the same key issues (storage of waste, visual amenity).

5.0 POLICY CONTEXT

Portsmouth Plan (2012)

- 5.1 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS23 (Design and Conservation)

Other Guidance

- 5.2 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice Framework (revised 2023)

6.0 CONSULTEE RESPONSES

- 6.1 Highways Engineer - no response received.

- 6.2 Waste Management Service - no response received

6.3 Regulatory Services - no response received

7.0 REPRESENTATIONS

7.1 6 objections received from nearby residents raising the following concerns:

- Reduced width of access road
- Increase in vermin/birds
- Proposals carried out without permission
- Poor visual quality
- Impact on residents mental health

8.0 COMMENT

8.1 The main determining issues for this application relate to the following:

- The principle of development;
- Design and impact on the character and appearance of the surrounding area
- Impact on neighbouring residential amenity;
- Highways
- Parking
- Waste;

The principle of development.

8.2 The application seeks the retention of a shipping container sited on the rear access of 60 Elm Grove. The shipping container, which would measure 2m by 6m, and would protrude from the top of the fence by approximately 0.9m would be noticeable from Woodpath. This is mitigated by the construction of the fence, which would remove most views of the containers from Woodpath and Pelham Road - except for the very top of the containers. The fence is considered to be an acceptable mitigation for the continued siting of these containers, and provides a better visual context to the rear service areas of the commercial units than the existing.

8.3 The rear access to these units has been established as a storage area for waste and other materials for some time (Google Street view provides evidence of the storage of bins since at least 2009) and it has been established that the business would continue to use the container for storage of stock, which would facilitate the efficient running of the business. The benefit to the businesses from the continued siting of these containers is a material consideration in favour of the application, considering that Elm Grove itself is a defined District Centre in the Portsmouth Local Plan, and proposals for restaurants, drinking establishments and hot food takeaways will be supported provided that there is no unacceptable adverse impact on the amenity of residents. The siting of the containers is not considered to adversely impact the private amenity space of any of the occupiers of properties on Woodpath, and thus the impacts on private amenity are considered to be minor.

8.4 It is noted that a number of residents have objected to the proposals on the grounds of amenity, stating chiefly that the width of the access road is reduced, and that the containers are attracting vermin. Whilst the width of the access road is in theory reduced if cars block the carriageway, it is a private road (unadopted by the council) and that it must be assumed that cars will not park in such an antisocial way as to totally impede access through Woodpath to Pelham Road and vice versa. In relation to increased vermin, the location is already an existing area for storing waste, and it is not expected that the proposals would cause a demonstrable increase in the number of vermin.

However if an increase in vermin is experienced, the council has a pest control team to deal with that issue.

- 8.5 The proposed retention of the extraction system is not objected to. No objections have been raised on any noise complaints from the commercial unit.
- 8.6 Overall, considering the above, the proposals should be recommended for approval subject to conditions.

Community Infrastructure Levy (CIL)

- 8.7 The development would not be CIL liable as there would not be an increase in total GIA.

Human Rights and the Public Sector Equality Duty ("PSED")

- 8.8 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.
- 8.9 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

9.0 CONCLUSION

- 9.1 Having regard to all material planning considerations and representations it is concluded that the proposed development is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission

RECOMMENDATION II - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

CONDITIONS

Time Limit:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

Approved Plans:

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - SHIPPING CONTAINER 02 PRO ELVES; SHIPPINGCON04.

Reason: To ensure the development is implemented in accordance with the permission granted.

Materials to be submitted

- 3) Prior to commencement, the materials to be used in the construction of the fence shall be submitted to, and approved in writing, by the Local Planning Authority.

Reason: To ensure that the development accords with Policy PCS23 'Design and Conservation' of the Portsmouth Local Plan (2012).

Agenda Item 6

23/00182/FUL

WARD: HILSEA

16 SHADWELL ROAD PORTSMOUTH PO2 9EJ

RETROSPECTIVE APPLICATION FOR CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO PURPOSES FALLING WITHIN DWELLINGHOUSE (CLASS C3) OR HOUSE IN MULTIPLE OCCUPATION (CLASS C4)

23/00182/FUL | RETROSPECTIVE APPLICATION FOR CHANGE OF USE FROM DWELLINGHOUSE (CLASS C3) TO PURPOSES FALLING WITHIN DWELLINGHOUSE (CLASS C3) OR HOUSE IN MULTIPLE OCCUPATION (CLASS C4) | 16 SHADWELL ROAD PORTSMOUTH PO2 9EJ

Application Submitted By:

Mr Steve Walker
Parkers Design

On behalf of:

Mr Suki Power

RDD: 10th February 2023

LDD: 26th April 2023

1.0 SUMMARY OF MAIN ISSUES

- 1.1 The application is brought before Planning Committee due to the number of objection comment received (6). There was also a call-in request from Scott Payter-Harris, who stated he did not believe enough information has been made public about the space standards for this HMO, and that the HMO data count appeared late online. This request was made while Scott Payter-Harris was still a councillor, although he no longer is a councillor, as of May 2023.
- 1.2 The main issues for consideration in the determination of the application/appeal are considered to be as follows:
- The principle of development;
 - Standard of accommodation;
 - Parking;
 - Waste;
 - Amenity impacts upon neighbouring residents;
 - Impact upon the Solent Protection Areas; and
 - Any other raised matters.

2.0 SITE AND SURROUNDINGS

- 2.1 The application relates to a two-storey, mid-terrace dwellinghouse (Class C3) located on the northern side of Shadwell Road as shown in **Figure 1** below. The dwellinghouse is set back from the road by a small front forecourt and to the rear of the property is an enclosed garden. The previous layout comprised of a lounge, dining room, conservatory bathroom and kitchen, at ground floor level; four bedrooms, and a bathroom at first floor level.
- 2.2 The application site is within a predominantly residential area, there are a variety of styles of properties in the area which are predominantly two-storey. 14 of the properties within the 50m radius have been subdivided into flats, the closest of which is 18 Shadwell Road.

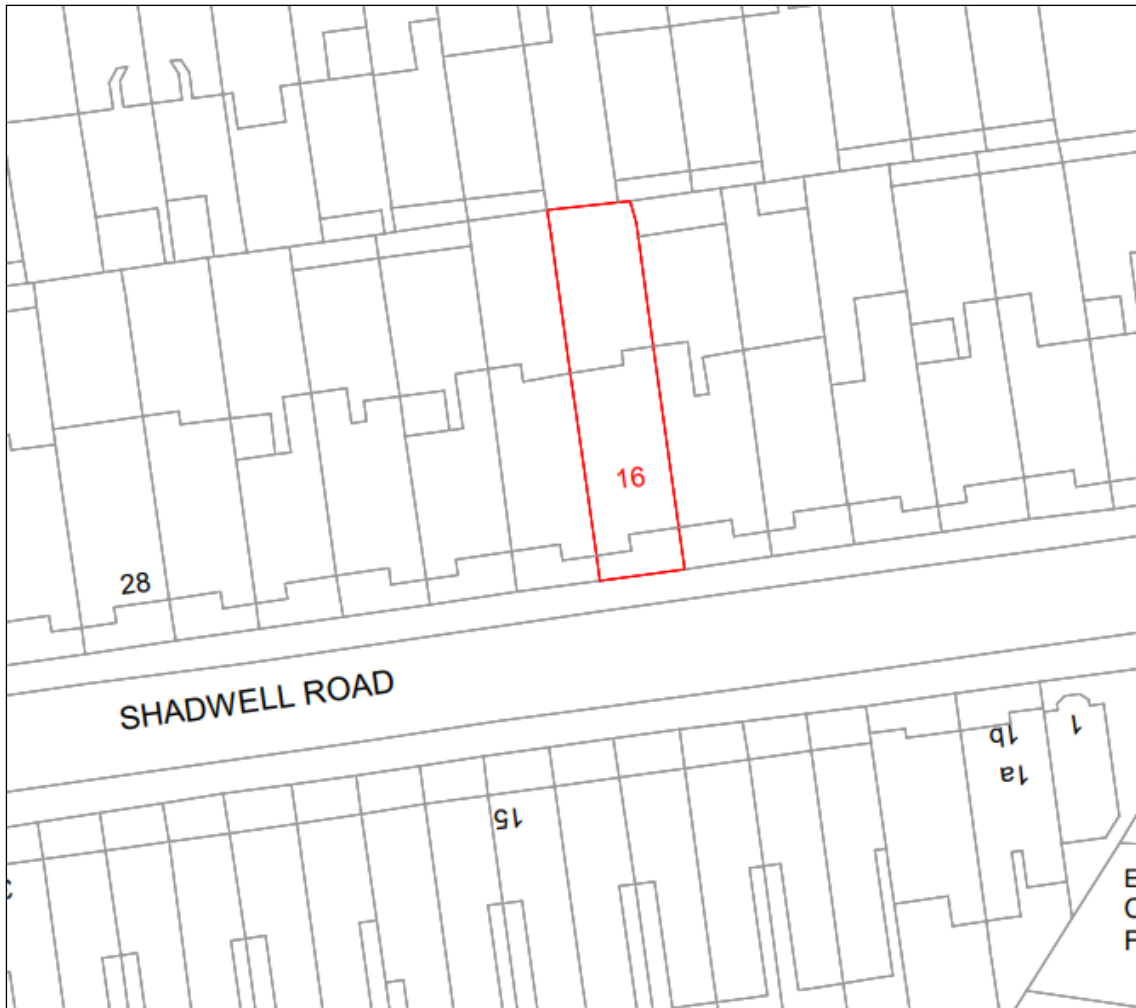


Figure 1 Site Location Plan

3.0 THE PROPOSAL

3.1 Planning permission is sought for the change of use of the property from a dwellinghouse (Class C3) to a dwellinghouse (Class C3) or House of Multiple Occupation (HMO) (Class C4) use with up to six individuals living together.

3.2 The internal accommodation, as shown in Figure 4 below, comprises the following:

- Ground Floor - One bedroom, bathroom; Kitchen, Living room and a conservatory.
- First Floor - Three bedrooms (one with a dressing room) and a bathroom (with a toilet and handbasin ensuite).

4.0 PLANNING HISTORY

4.1 None relevant.

5.0 POLICY CONTEXT

5.1 Portsmouth Plan (2012)

5.2 In addition to the aims and objectives of the National Planning Policy Framework (2021), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)

- PCS23 (Design and Conservation).

5.3 Other Guidance

5.4 Guidance for the assessment of applications that is relevant to the application includes:

- National Planning Practice Guidance (revised 2021)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

6.0 CONSULTATIONS

6.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004.

6.2 Highways Engineer - Shadwell Road is a residential road with bus stops and limited amenities in the close vicinity. Given the small scale of the development, I am satisfied that the proposal would not have a material impact on the local highway network.

6.3 Portsmouth City Councils Parking SPD gives the expected level of vehicle and cycle parking within new residential developments. The requirement for a 3 bedroom dwelling is 1.5 vehicle spaces and 2 cycle spaces, this compared with the requirement for a 4 bedroom HMO is 2 spaces and 4 cycle spaces.

6.4 No parking survey information has been submitted to demonstrate on street capacity if additional demand resulting from the development can be accommodate within a 200m walking distance of the application site. However it is considered that the addition of one bedroom would be unlikely to significantly increase parking pressure that would cause a highway safety impact.

6.5 Whilst no cycle store is outlined, it is considered there is sufficient space within the rear garden to accommodate a store.

7.0 REPRESENTATIONS

7.1 Six representations have been received objecting to the proposed development.

7.2 The above representations of objection have raised the following concerns:

- a) Parking impacts;
- b) Loss of family housing;
- c) Strain on public services;
- d) Noise concerns;
- e) Fire safety concerns;
- f) Impact on family character of the area;
- g) Number of HMOs within the area;
- h) Loss or property value; and
- i) Waste and dust from building operations.

8.0 COMMENT

8.1 The main determining issues for this application relate to the following:

- The principle of Development;
- The standard of accommodation;
- Impact upon amenity neighbouring residents;
- Parking;
- Waste;
- Impact upon the Solent Protection Areas; and
- Any other raised matters

8.2 Principle of development

- 8.3 Retrospective permission is sought for the flexible use of the property for purposes falling within Class C4 (house in multiple occupation) (HMO) or Class C3 (dwellinghouse). The application form states that property was in use as a Class C4 HMO from 2013 to 2023. Reviewing the Council Tax Records for the property the LPA is only able to confirm this use from 2017 onwards. The property is now in use as a Class C3 dwellinghouse. The applicant has set out that the property was occupied by at most 4 occupants while it was in the purported C4 use. For reference, a Class C4 HMO is defined as 'a property occupied by between three and six unrelated people who share basic amenities such as a kitchen or bathroom'.
- 8.4 Policy PCS20 of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.
- 8.5 Based on the information held by the City Council, of the 72 properties within a 50-metre radius of the application site, there are only 4 confirmed HMOs (Class C4) at Nos. 13, 15 and 29 Shadwell Road and 289 London Road as shown in **Figure 2** below. (no. 29 is not on the plan but it was recently recommended for approval as an HMO by the Planning Committee). Additionally, a number of addresses have been raised to the Case Officer by neighbours, as potential HMOs. Reviewing these, the majority are identified within the neighbour comments as being in use as flats (Nos. 1A, 1B, 2, 3, 4, 5, 18) which do not fall into Class C4 use and therefore are not considered within the HMO Data count. No. 17 Shadwell Road was previously investigated to establish its use and was confirmed to be owned and managed by the Clarion Housing Group and was visited by a member of the Planning Enforcement Team on 9 July 2021 who spoke with a care worker at the door who confirmed that the property provides supported living for 3 people with round the clock care. This was consistent with Council Tax and HMO licensing investigation. On this basis, it is considered that 17 Shadwell Road is in Class C3(b) use and not included within the HMO makeup of the area.
- 8.6 Including the application property, the percentage of HMOs within the area following both permissions would be 6.94%. This is lower than the 10% threshold above which an area is considered to be imbalanced and in conflict with Policy PCS20.



Figure 2 Existing HMOs within 50m of the application site

- 8.7 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where: the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. There is no conflict caused by this proposal with this guidance.
- 8.8 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).
- 8.9 Standard of accommodation
- 8.10 The application seeks, in addition to a C3 use, the opportunity to use the property as a C4 HMO which would, in planning terms, technically allow occupation by up to six individuals. The submitted plans have been checked by officers, and, notwithstanding the annotations on the submitted plans the measured rooms sizes have been used for assessment purposes. For the proposed C4 HMO use, the room sizes have been assessed against the space standards for an HMO as shown in Table 1 below.

Room	Area Provided	Required Standard
Bedroom 1 (first floor)	14m ²	10m ²
Bedroom 2 (first floor)	18m ²	10m ²
Bedroom 3 (first floor)	13m ²	10m ²
Bedroom 4 (ground floor)	18m ²	10m ²
Kitchen (ground floor)	15m ²	11m ²
Living room (ground floor)	14m ²	14m ²
Conservatory (ground floor)	13m ²	Not required
Bathroom 1 (ground floor)	5m ²	3.74m ²
Bathroom 2 (second floor)	4m ²	3.74m ²

Figure 3 Table of Floorplans

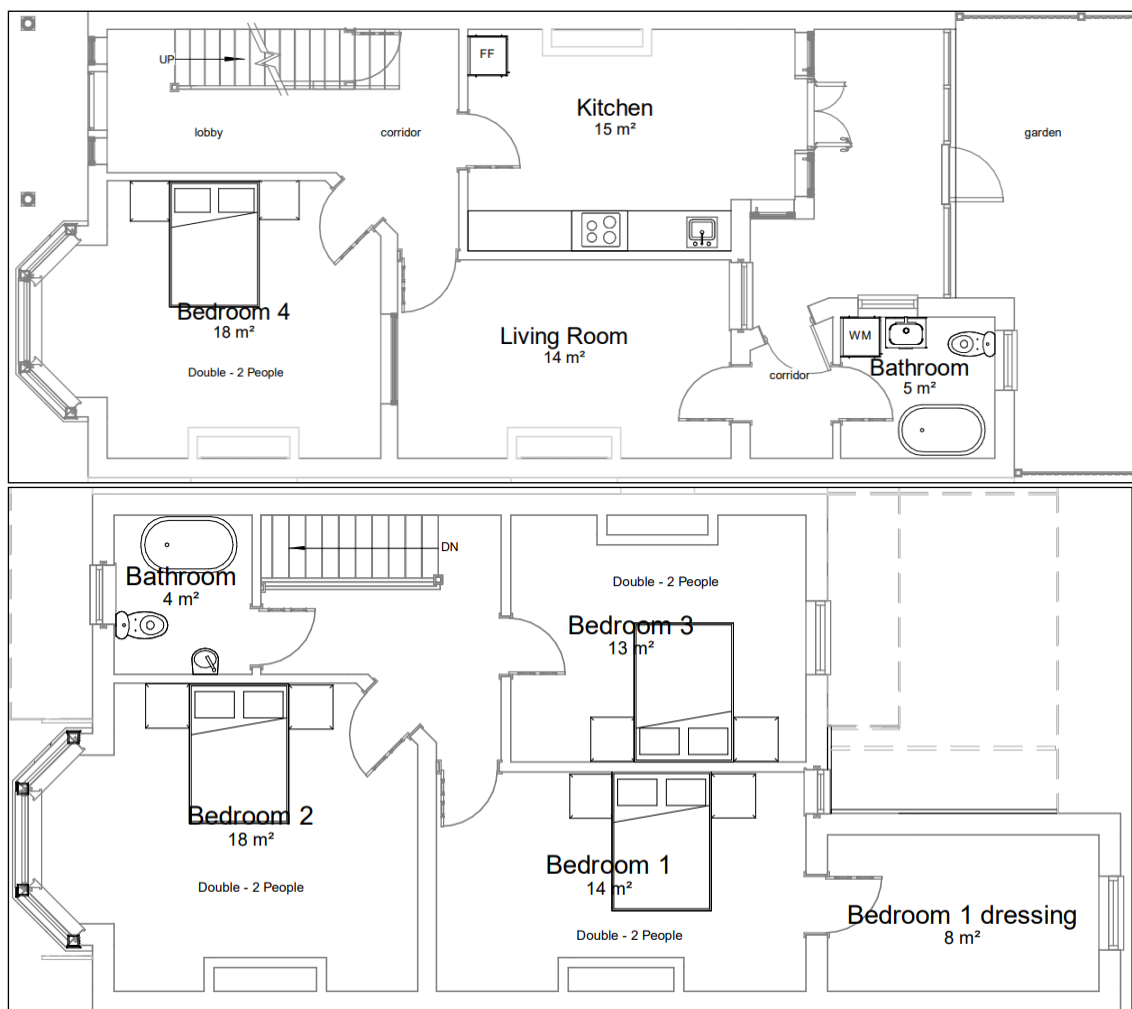


Figure 4 Proposed Floorplans

- 8.11 It is noted that all of the bedrooms are identified on the plans as being double rooms, for two occupants. This has been discussed and raised with the applicant, who has stated that only two of the bedrooms would be double occupancy in order not to exceed 6 occupants for Class C4 use. Reviewing the layout and sanitary facilities proposed, it is considered that the property could only be occupied by up to 5 individuals sharing in accordance with the Council's HMO SPD. The Case Officer has sought to confirm one room to be double occupancy and have the plans amended. No response has been received from the applicant over this matter. It is therefore considered to be appropriate in this instance to impose a condition on any permission restricting the property to 5 occupants. This therefore leaves the matter for the applicant to determine which room, if any, is for occupancy by two persons.

- 8.12 It is considered that the scheme, in terms of its layout, otherwise meets the straightforward appraisal against the Council's adopted space standards except for the supposed lack a dining room. However, the HMO SPD, at para 2.6, advises that more detailed guidance, beyond these headline requirements should be referred to within the Councils standards for Houses in Multiple Occupation Guidance (September 2018). This more detailed guidance removes the requirement for a dining room in circumstances where all bedrooms are at least 10m² and the accommodation is otherwise acceptable as communal space. On the basis of the information supplied with the application this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment.
- 8.13 Impact on neighbouring living conditions
- 8.14 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property either as a dwellinghouse (Class C3) which involves occupation by a single family, would be unlikely to be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.
- 8.15 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one further HMO would not be significantly harmful.
- 8.16 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse (Class C3), would not be significantly different from the occupation of the property by between 3 and 6 unrelated persons as a house in multiple occupation.
- 8.17 Whilst activity in regards to coming and goings to the site as well as cooking and general household activities, through the occupants possibly not acting as a collective and therefore cooking meals on an individual basis, may be increased with the introduction of a HMO in this location, it would not result in an overconcentration of HMOs within the surrounding area, and therefore it is considered that the impact of one further HMO (bringing the total to two within a 50m radius) would not have any demonstrable adverse impact to wider amenity.
- 8.18 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.19 Highways/Parking
- 8.20 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Class C4 HMOs with four or more bedrooms. However, it should be noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be 2 off-road spaces, and these bedrooms could be achieved by permitted development without any planning control on parking.
- 8.21 The C4 element of the proposal compared to the existing property only expects an extra half a parking space, to which neither the Highways Officer nor Planning Officer raises an objection. As the level of occupation associated with a HMO is not considered to be significantly greater than the occupation of the property as a Class C3 dwellinghouse, it

is considered that an objection on either highway safety grounds, or car parking standards, could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle.

8.22 The Council's Adopted Parking Standards set out a requirement for C4 HMOs to provide space for the storage of at least 4 bicycles. The property has a rear garden where secure cycle storage could be located. The requirement for cycle storage is recommended to be secured by condition.

8.23 Waste

8.24 The storage of refuse and recyclable materials would remain unchanged, being located in the forecourt area, and an objection on waste grounds would not form a sustainable reason for refusal.

8.25 Impact on Special Protection Areas

8.26 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development, this application is for the change of use of the property from C3 (dwellinghouse) to a flexible C3/C4 use (both would allow up to 6 people), and as such it is not considered to represent an increase in overnight stays. The development would therefore not have a likely significant effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

8.27 Community Infrastructure Levy (CIL)

8.28 The development would not be CIL liable as there would be no increase in the Gross Internal Area of the application property.

8.29 Human Rights and the Public Sector Equality Duty ("PSED")

8.30 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

8.31 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

8.32 Other Matters raised in the representations

8.33 Concerns have been raised by neighbouring residents regarding the pressure the use would put on local services. However, having regard to the existing lawful use of the

property as a self-contained dwellinghouse, it is considered the use of the property would not have a significantly greater impact on local services than the existing use which could be occupied by a similar number of occupants.

- 8.34 Fire safety is not a consideration in such a planning application and would be appropriately managed via Private Sector Housing and Building Control.
- 8.35 As stated above, the HMO Database has been reviewed and these initial results checked by the Planning Officer, no further HMOs have been highlighted by local residents or Councillors.
- 8.36 Waste and dust caused by Building Operations are an unavoidable by-product of development, given the scale of the proposal a Construction Management Plan would not be justifiable.
- 8.37 Impact on property values is not a material planning consideration.
- 8.38 All other objections are addressed within the report above or conditions below.

9.0 CONCLUSION

- 9.1 Having regard to all material planning considerations and representations it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

RECOMMENDATION

Conditional Permission

Conditions

Time Limit:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission. Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

Approved Plans:

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings - Drawing numbers: Ground Floor - P1; First Floor - P2; and Site Plan - P4.

Reason: To ensure the development is implemented in accordance with the permission granted.

Cycle Storage:

- 3) Prior to first occupation of the property as a House in Multiple Occupation within Use Class C4, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

Restriction of occupancy to 5:

4) The proposed HMO hereby approved shall only be occupied by 5 residents and bedroom 3 shall only be single occupancy

Reason: To order for the property not to exceed the SPD standards for the number of residents given the lack of further bathroom and communal space in accordance with Policy PCS23 of the Portsmouth Plan.

Agenda Item 7

23/01527/FUL

WARD: COPNOR

115 CHICHESTER ROAD PORTSMOUTH PO2 0AG

CHANGE OF USE FROM A C3 DWELLINGHOUSE TO A 7 PERSON /7 BEDROOM HOUSE IN MULTIPLE OCCUPATION

23/01527/FUL | CHANGE OF USE FROM A C3 DWELLINGHOUSE TO A 7 PERSON /7 BEDROOM HOUSE IN MULTIPLE OCCUPATION | 115 Chichester Road Portsmouth PO2 0AG

Application Submitted By:

Carianne Wells
Applecore PDM Ltd

On behalf of:

Mr Simpson

RDD: 28.12.2023

LDD: 31.01.2024

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due 61 objections including Cllr Madgwick and call in requests from Cllrs Fazackerley and Swann.
- 1.2 The main issues for consideration in the determination of the application are considered to be as follows:
 - The principle of development;
 - Standard of accommodation;
 - Relevant planning history providing fallback position
 - Parking;
 - Waste;
 - Amenity impacts upon neighbouring residents;
 - Impact upon the Solent Protection Areas; and
 - Any other raised matters.

2.0 SITE AND SURROUNDINGS

- 2.1 The application site comprises of a two-storey mid-terraced dwelling located to the northern side of Chichester Road as shown in **Figure 1** below. The property is set back from the highway by a small front garden and a fair-sized rear garden.
- 2.2 The surrounding area is predominantly residential in character with similar terraced properties. The application site falls within a residential area characterised by rows of two-storey terraced properties.



Figure 1 Location plan

3.0 THE PROPOSAL

- 3.1 Planning permission is sought for the change of use from dwellinghouse (Class C3) to House in Multiple Occupation for seven people. All bedrooms would be for single occupancy.
- 3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:

- Ground Floor - Two bedrooms (both with ensuite shower, toilet and handbasin), communal Kitchen/Dining room, Shared WC
- First Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite)
- Second Floor - Two bedrooms (both with a shower, toilet and handbasin ensuite).

3.3 The Applicant has stated that works to extend the property will be undertaken under permitted development (without the need to apply for planning permission). These works include a rear dormer and rooflights to the front roofslope; these works are not included in the application. They should not be considered as part of the application.



Figure 2 Proposed Floor Plans & Elevations

4.0 PLANNING HISTORY

4.1 No relevant planning history

5.0 POLICY CONTEXT

5.1 Portsmouth Plan (2012)

5.2 In addition to the aims and objectives of the National Planning Policy Framework (2023), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

5.3 Other Guidance

5.4 Guidance relevant to the assessment of this application includes:

- National Planning Practice Guidance (updated in 2023)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

6.0 CONSULTATIONS

6.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004.

6.2 Highways Engineer - Chichester Road is a residential road with bus stops and amenities in close proximity on London Road. It is not considered that the development would lead to a material impact on the function of the highway.

6.3 Natural England - No objection subject to appropriate mitigation being secured

7.0 REPRESENTATIONS

7.1 Sixty-three objections have been received in response to the application.

7.2 The above representations of objection have raised the following concerns:

- a) Increase in noise and disturbance;
- b) Increase in crime and anti-social behaviour;
- c) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- d) Undue strain on local services and infrastructure, including the sewage, drainage, waste management and Doctors/Dentists
- e) Concerns about impact on community and loss of family dwelling
- f) Lack of neighbour notification
- g) Overdevelopment of the site and issues with room sizes
- h) Loss of property value
- i) Inaccuracy of HMO data

8.0 COMMENT

8.1 The main determining issues for this application relate to the following:

- The principle of Development;
- The standard of accommodation;
- Impact upon amenity neighbouring residents;
- Parking;
- Waste;
- Impact upon the Solent Protection Areas; and
- Any other raised matters

8.2 Principle of development

Five year Housing Land supply.

8.3 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 182). Where a local planning authority cannot demonstrate a five year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.4 Currently, the Council can demonstrate 3.31 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five year supply of housing. This development would provide greater occupation of the building, so make a small, additional contribution towards the City's housing needs, at a sustainable location in the city, with good public transport, retail and services, employment, leisure, health facilities, etc. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal must still be considered as to whether the development is appropriate in detail, as set out below.

HMO Policy

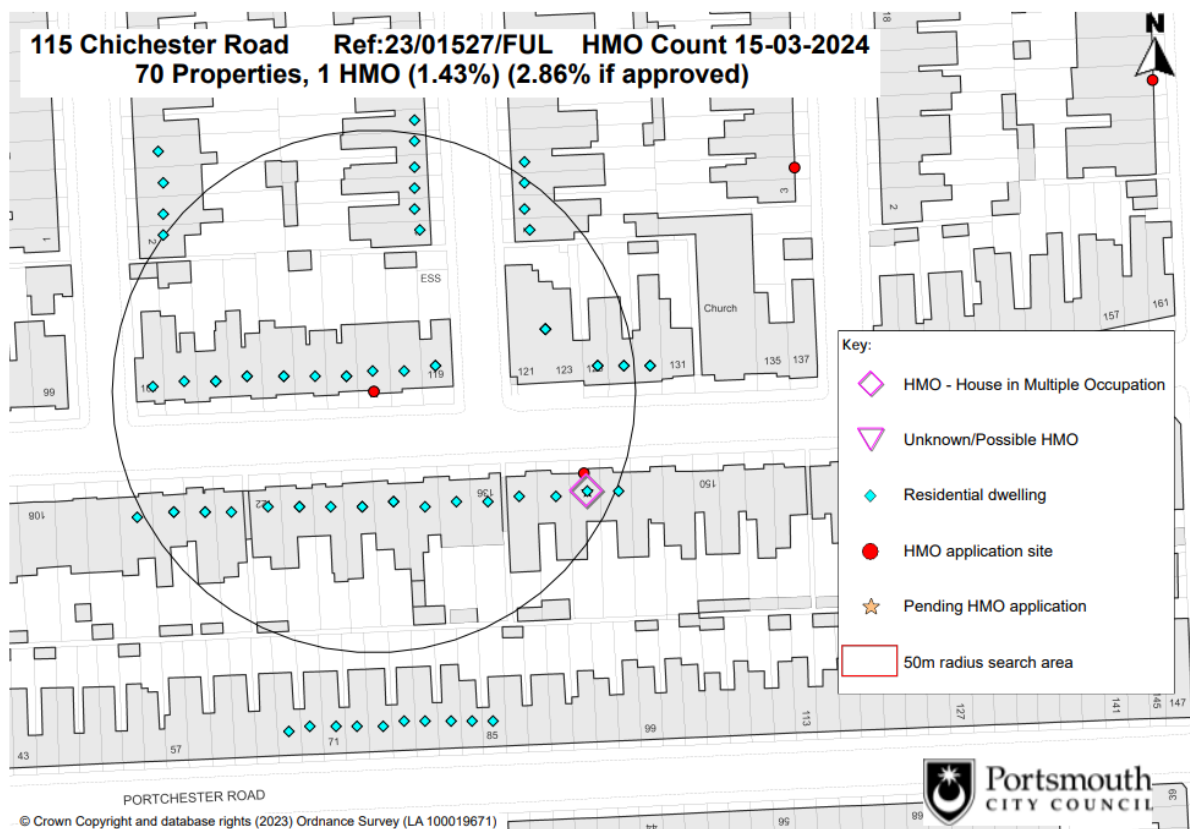
8.5 Permission is sought for the use of the property as a Sui Generis HMO for 7 persons. The property is currently considered to have a lawful use as a self-contained dwelling (Class C3).

8.6 Policy PCS20 of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City

Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.

8.7 Based on information held by the City Council, of the 70 properties within a 50 metre radius of the application site, 1 property has been identified as an HMO in lawful use. Therefore, the existing number of HMOs equates to 1.4% of the properties within the search area. The addition of the application property would in an additional 1 property being an HMO within the 50m radius, equivalent to a 2.9% HMO density. The density falls below the 10% threshold limit above which an area is considered to be imbalanced. Comments have been raised regarding the high density of HMOs along Chichester Road, however this is due to the length of the road at approximately 1km, and officers have checked planning history and licensing records. No conflict with the HMO SPD have been found, which is the sole material planning consideration officers have in terms of character of the area.

8.8 In addition to the HMO plan as shown below, a full check of planning history of properties within the 50m radius has also been undertaken, tallying with the data in the HMO map.



8.9 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where: the granting of the application would result in three or more HMOs

adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. There is no conflict caused by this proposal with this guidance.

8.10 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

8.11 Standard of accommodation

8.12 The application seeks Sui Generis HMO use for 7 persons and proposes the following room sizes as measure by the planning officer, as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 second floor (Single use)	13m ²	10.00m ²
Bedroom 2 second floor (Single use)	11.7m ²	10.00m ²
Bedroom 3 first floor (Single use)	10.9m ²	10.00m ²
Bedroom 4 first floor (Single use)	10m ²	10.00m ²
Bedroom 5 first floor (Single use)	18.7m ²	10.00m ²
Bedroom 6 ground floor (Single use)	10.6m ²	10.00m ²
Bedroom 7 ground floor (Single use)	14.7m ²	10.00m ²
Communal Kitchen/Dining area (ground floor)	24.1 m ²	22.5m ² (because all bedrooms exceed 10m ²)
Shared WC (ground floor)	1.9m ²	Additional/NA
Ensuite bathroom for bedroom 1	3.04m ²	2.74m ²
Ensuite bathroom for bedroom 2	2.78m ²	2.74m ²
Ensuite bathroom for bedroom 3	3.6m ²	2.74m ²
Ensuite bathroom for bedroom 4	2.78m ²	2.74m ²
Ensuite bathroom for bedroom 5	3.02m ²	2.74m ²
Ensuite bathroom for bedroom 6	3.1m ²	2.74m ²
Ensuite bathroom for bedroom 7	2.75m ²	2.74m ²
Tanks Room	2.15m ²	Additional/NA

Table 1 - HMO SPD (Oct 2019) compliance

8.13 As is shown in the table above, the proposal results in an internal layout that meets the Council's adopted space standards in accordance with your HMO SPD. This states at para 2.6, that more detailed guidance, beyond these headline requirements should be referred to within the Council's standards for Houses in Multiple Occupation Guidance (September 2018). This more detailed guidance applies lower minimum requirements (of 22.5m²) for combined living accommodation in circumstances where all bedrooms are at least 10m² and the accommodation is otherwise acceptable as communal space. On the basis of the information supplied with the application this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment - submitted proposed floor plans show a sufficient amount of space within the communal kitchen/dining area to accommodate communal dining/lounge space.

8.14 All habitable rooms have good access to natural light and in addition, a rear garden also provides external amenity space for the residents.

8.15 All the 7 bedrooms would have ensuite facilities, the accommodation therefore would provide a suitable overall arrangement of sanitary facilities.

8.16 Impact on neighbouring living conditions

- 8.17 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse in Class C3, would be unlikely to be significantly different from the occupation of the property by up to 7 unrelated persons as an HMO.
- 8.18 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one HMO would not be significantly harmful.
- 8.19 All alterations to facilitate additional living accommodation are to be undertaken using permitted development, which the property benefits from. Any objections in regard to overlooking or loss of light from the dormer would not be material planning considerations as these works can be carried out without the need for planning permission.
- 8.20 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.

8.21 Highways/Parking

- 8.22 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Sui Generis HMOs with four or more bedrooms. It should be noted that the expected level of parking demand for a Class C3 dwellinghouse with five bedrooms is also 2 off-road spaces. The proposal has no off-street parking, which is no change from the current use.
- 8.23 As explained above, neither the Highways Officer nor Planning Officer highlights an issue with the scheme on the grounds of a lack of off-street parking. As the SPD requirement for parking is not different for the proposal than a similarly sized Class C3 dwellinghouse or C4 HMO (2 spaces), it is considered that refusal on a lack of parking is not reasonable or defensible. There is no objection on either highway safety grounds and therefore refusal could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle, or even more than 1 vehicle each. In addition, it is considered that the site is within an area of good accessibility and located within an acceptable walking distance of the various amenities and services, and bus routes.
- 8.24 The Council's Adopted Parking Standards set out a requirement for C4 HMOs to provide space for the storage of at least 4 bicycles. The property has a rear garden where a proposed secure cycle storage is shown to be located - it is acknowledged that access to the cycle storage can only be achieved through the house given that

there is no rear access to the garden. The requirement for cycle storage is recommended to be secured by condition.

8.25 Waste

8.26 The storage of refuse and recyclable materials would remain unchanged, to be accommodated in the suitable front forecourt area. An objection on waste grounds would not form a sustainable reason for refusal and it is not considered necessary to require details of formalised waste storage.

8.28 Other matters raised in objections

8.29 Loss of property value is not a material planning consideration and cannot be given weight in the decision-making process.

8.30 Neighbour consultation was carried as per local and national policy. 9 neighbour letters were sent out and a site notice was put up.

8.31 Impact on Special Protection Areas

8.32 As there is a measurable increase in occupancy from 2.4 persons (for a C3 dwelling) to 7 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and Recreational Disturbance to the SPA is required. This can be secured through a s111 agreement.

8.33 Human Rights and the Public Sector Equality Duty ("PSED")

8.34 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

8.35 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

9.0 CONCLUSION

9.1 Having regard to all material planning considerations it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant

policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

RECOMMENDATION Conditional Permission

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:

- (a) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution. and conditions (below)

RECOMMENDATION II - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

RECOMMENDATION III - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.

CONDITIONS

Time Limit:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

Approved Plans:

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings:

- Location Plan TQRQM23338141825543
- Sui Gen Plan PG8167.23.4

Reason: To ensure the development is implemented in accordance with the permission granted.

Cycle Storage:

- 3) Prior to first occupation of the property as a House in Multiple Occupation, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

Water Efficiency

- 4) The proposal hereby permitted shall not (unless otherwise agreed in writing with the LPA) be occupied until written documentary evidence has been submitted to and approved in writing by the Local Planning Authority demonstrating that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)b of the Building Regulations (2010) (as amended). Such evidence shall be in the form of a post construction water efficiency calculator.
Reason: To ensure that the development complies with PCS15 of the Portsmouth Plan and does not exceed the scope of Nitrate Mitigation Credits purchased.

PD Works

- 5) Prior to the occupation of the property as a HMO for 7 persons, the rear dormer proposed to be constructed under permitted development allowances shall be completed.

Reason: In order to ensure that the property meets the required space standards and therefore provides a good standard of living in accordance with Policy PCS23 of the Portsmouth Plan.

Informative

- a) 2 x 360 litre bins are required for a 7 bed HMO. The applicant will need to purchase these bins directly from Portsmouth City Council Waste Management prior to the tenants moving in.
- b) Please be aware that an HMO license may be required. HMO licenses are assessed against new standards that may differ to those used in the Planning process and you are therefore advised to check the licensing requirements and standards prior to occupation. For more information, and to find out about our landlord accreditation scheme please contact the City Council's Private Sector Housing Team using the details below: Email: housing.privatesector@portsmouthcc.gov.uk Postal address: Private Sector Housing, Portsmouth City Council, Civic offices, Guildhall Square, Portsmouth, PO1 2AZ. Phone Number: 023 9284 1659

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Agenda Item 8

23/01106/FUL

WARD: HILSEA

51 SHADWELL ROAD PORTSMOUTH PO2 9EH

CHANGE OF USE FROM A DWELLINGHOUSE (CLASS C3) TO A 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION

[23/01106/FUL | Change of use from a dwellinghouse \(C3\) to a 7-bed/7-person House in Multiple Occupation | 51 Shadwell Road Portsmouth PO2 9EH](#)

Application Submitted By:

Mr Willment
Incollective.Works

On behalf of:

Mr Mendonca

RDD: 18.09.2023

LDD: 13.11.2023

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due 7 neighbour objections.

1.2 The main issues for consideration in the determination of the application are considered to be as follows:

- The principle of development;
- Standard of accommodation;
- Relevant planning history providing fallback position
- Parking;
- Waste;
- Amenity impacts upon neighbouring residents;
- Impact upon the Solent Protection Areas; and
- Any other raised matters.

2.0 SITE AND SURROUNDINGS

2.1 The application site comprises of a two-storey mid-terraced dwelling located to the southern side of Shadwell Road as shown in **Figure 1** below. The property is set back from the highway by a small front garden and a fair-sized rear garden.

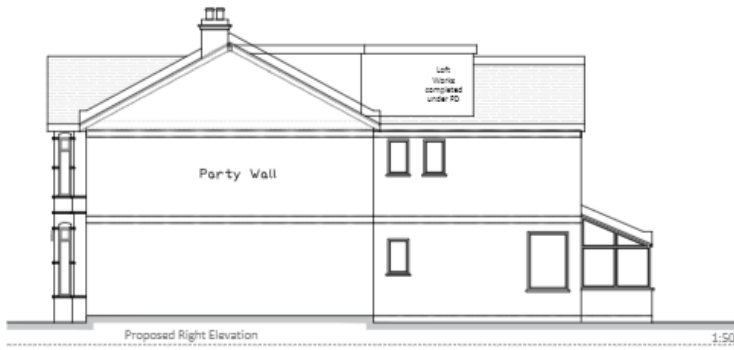
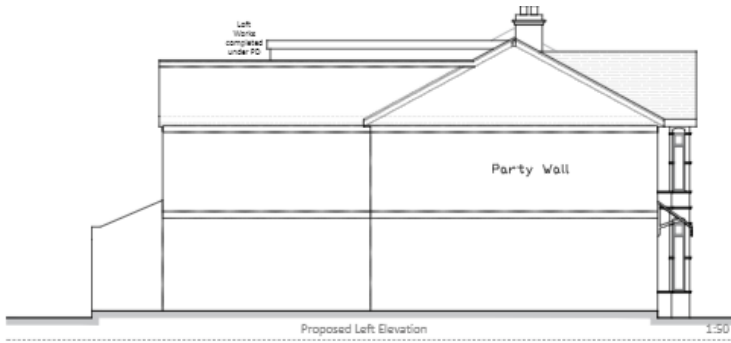
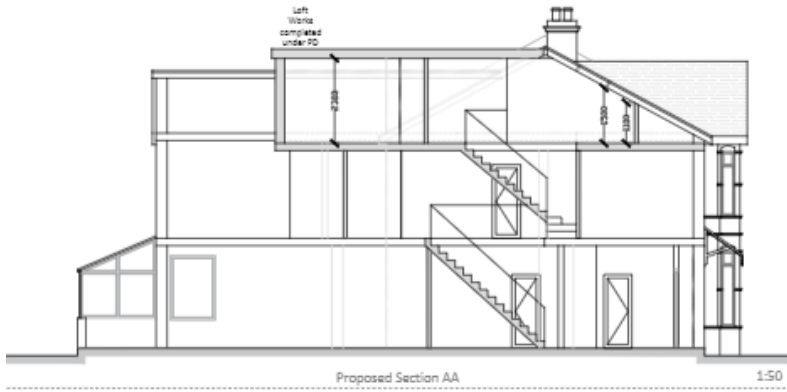
2.2 The surrounding area is predominantly residential in character with similar terraced properties. The application site falls within a residential area characterised by rows of two-storey terraced properties.



Figure 1 Location plan

3.0 THE PROPOSAL

- 3.1 Planning permission is sought for the change of use from dwellinghouse (Class C3) to House in Multiple Occupation for seven people. All bedrooms would be for single occupancy.
- 3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:
- Ground Floor - Two bedrooms (both with ensuite shower, toilet and handbasin), communal Kitchen/Dining room.
 - First Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite)
 - Second Floor - Two bedrooms (both with a shower, toilet and handbasin ensuite).
- 3.3 The Applicant has stated that works to extend the property will be undertaken under permitted development (without the need to apply for planning permission). These works include a rear dormer and rooflights to the front roofslope; these works are not included in the application. They should not be considered as part of the application.



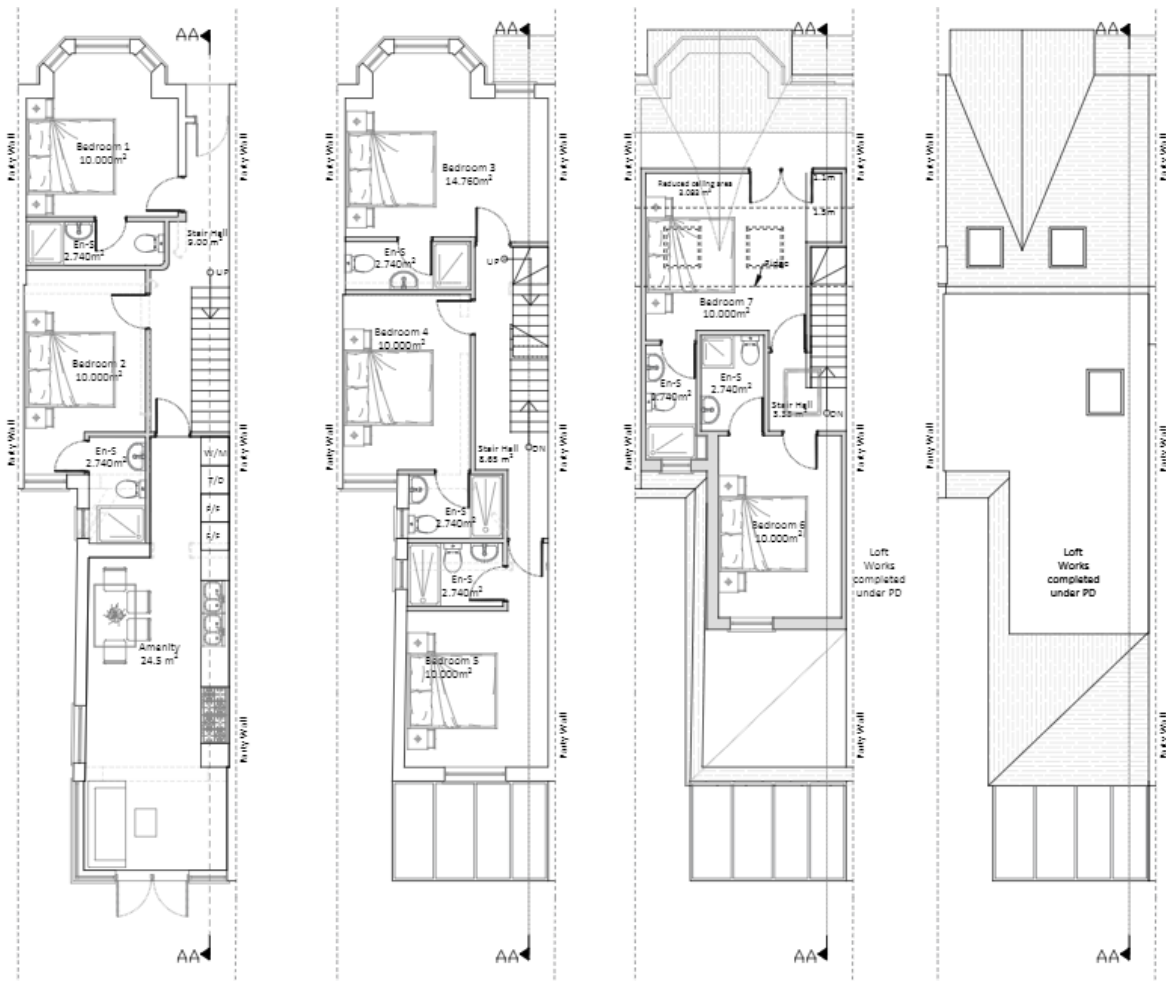


Figure 2 Proposed Floor Plans & Elevations

4.0 PLANNING HISTORY

- 4.1 22/01707/FUL Change of use from dwellinghouse (Class C3), to purposes falling within Classes C3 (dwellinghouse) or C4 (house in multiple occupancy) Conditional Permission 07.03.2023 (Committee decision)

5.0 POLICY CONTEXT

5.1 Portsmouth Plan (2012)

5.2 In addition to the aims and objectives of the National Planning Policy Framework (2023), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)
- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

5.3 Other Guidance

5.4 Guidance relevant to the assessment of this application includes:

- National Planning Practice Guidance (updated in 2023)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

6.0 CONSULTATIONS

- 6.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004.
- 6.2 Highways Engineer - Shadwell Road is a residential Road with parking accommodated through unrestricted on street parking. The demand for parking on street regularly exceeds the space available particularly in the evenings and weekends. No traffic assessment has been provided however given the small scale of the development, I am satisfied that the proposal would not have a material impact upon the function of local highway network. Portsmouth City Councils Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for 7 bedroom Sui Generis HMOs with four or more bedrooms. However it is noted that the expected level of parking demand for a Class C3 dwellinghouse with four or more bedrooms would also be for 2 off-road spaces. No parking survey information has been submitted to demonstrate on street capacity if additional demand resulting from the development can be accommodate within a 200m walking distance of the application site. Therefore, there is the potential for increased instances of residents driving around the area hunting for a parking space, although is an issue of residential amenity. This could justify a reason for refusal and consequently you should give this due weight in your determination of the planning application. Suggested condition: Final details of secure cycle storage provided to the LHA and thereby implemented prior to occupation

7.0 REPRESENTATIONS

- 7.1 Seven objections have been received in response to the application.
- 7.2 The above representations of objection have raised the following concerns:
- a) Increase in noise and disturbance;
 - b) Increase in crime and anti-social behaviour;
 - c) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
 - d) Undue strain on local services and infrastructure, including the sewage, drainage, waste management and Doctors/Dentists
 - e) Concerns about impact on community and loss of family dwelling
 - f) Loss of property value
 - g) Fire risk
 - h) Inaccuracy of HMO data

8.0 COMMENT

- 8.1 The main determining issues for this application relate to the following:

- The principle of Development;
- The standard of accommodation;
- Impact upon amenity neighbouring residents;
- Parking;
- Waste;
- Impact upon the Solent Protection Areas; and
- Any other raised matters

8.2 Principle of development

Five year Housing Land supply.

8.3 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 182). Where a local planning authority cannot demonstrate a five year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.4 Currently, the Council can demonstrate 3.31 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five year supply of housing. This development would provide greater occupation of the building, so make a small, additional contribution towards the City's housing needs, at a sustainable location in the city, with good public transport, retail and services, employment, leisure, health facilities, etc. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal must still be considered as to whether the development is appropriate in detail, as set out below.

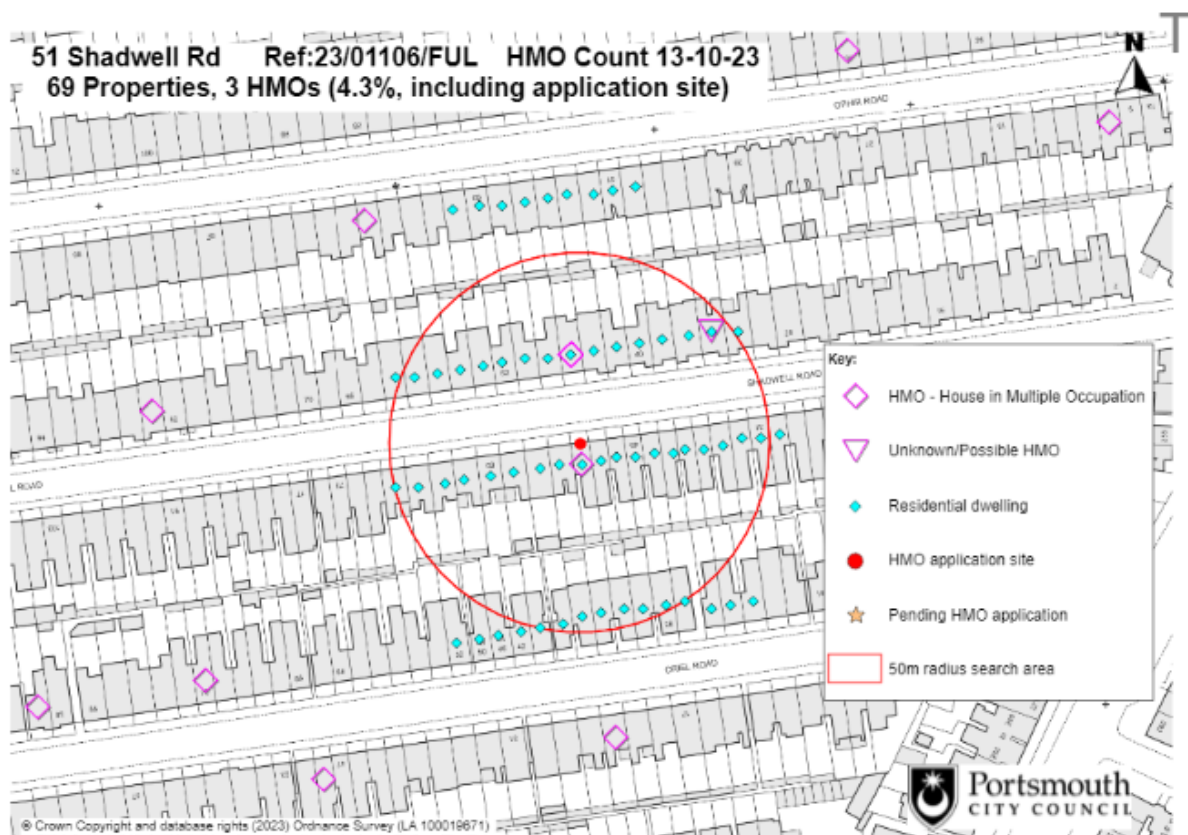
HMO Policy

8.5 Permission is sought for the use of the property as a Sui Generis HMO for 7 persons. The property is currently considered to have a lawful use as a self-contained dwelling (Class C3), though it could also be lawfully used a C4 HMO with 3-6 unrelated residents through the implementation of last year's planning consent ref. 22/01707/FUL.

8.6 Policy PCS20 of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD

states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.

- 8.7 Based on information held by the City Council, of the 69 properties within a 50 metre radius of the application site, 3 properties have been identified as an HMO in lawful use. This already includes the application premises, because of the consent issued last year for C3/C4 use.
- 8.8 Additionally, an HMO application at 29 Shadwell Road was recommended for approval by your Committee in January, the issuing of the decision notice is awaiting the legal agreement for Special Protection Area mitigation (ref. 23/01466/FUL). Therefore, no. 29 should be added as an HMO, giving a total of 4 properties within the 50m radius = 5.8%. The density falls below the 10% threshold limit above which an area is considered to be imbalanced.



- 8.9 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where: the granting of the application would result in three or more HMOs adjacent to each other, or where the granting of the application would result in any residential property being 'sandwiched' between two HMOs. There is no conflict caused by this proposal with this guidance.

8.10 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

8.11 Standard of accommodation

8.12 The application seeks Sui Generis HMO use for 7 persons and proposes the following room sizes as measure by the planning officer, as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 ground floor (Single use)	10m ²	10.00m ²
Bedroom 2 ground floor (Single use)	10.1m ²	10.00m ²
Bedroom 3 first floor (Single use)	14.8m ²	10.00m ²
Bedroom 4 first floor (Single use)	10.3m ²	10.00m ²
Bedroom 5 first floor (Single use)	10.1 m ²	10.00m ²
Bedroom 6 second floor (Single use)	10.1 m ²	10.00m ²
Bedroom 7 second floor (Single use)	10.1 m ²	10.00m ²
Communal Kitchen/Dining area (ground floor)	24.3 m ²	22.5m ² (because all bedrooms exceed 10m ²)
Ensuite bathroom for bedroom 1	2.74m ²	2.74m ²
Ensuite bathroom for bedroom 2	2.74m ²	2.74m ²
Ensuite bathroom for bedroom 3	2.74m ²	2.74m ²
Ensuite bathroom for bedroom 4	2.74m ²	2.74m ²
Ensuite bathroom for bedroom 5	2.74m ²	2.74m ²
Ensuite bathroom for bedroom 6	2.74m ²	2.74m ²
Ensuite bathroom for bedroom 7	2.74m ²	2.74m ²

Table 1 - HMO SPD (Oct 2019) compliance

8.13 As is shown in the table above, the proposal results in an internal layout that meets the Council's adopted space standards in accordance with your HMO SPD. This states at para 2.6, that more detailed guidance, beyond these headline requirements should be referred to within the Council's standards for Houses in Multiple Occupation Guidance (September 2018). This more detailed guidance applies lower minimum requirements (of 22.5m²) for combined living accommodation in circumstances where all bedrooms are at least 10m² and the accommodation is otherwise acceptable as communal space. On the basis of the information supplied with the application this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment - submitted proposed floor plans show a sufficient amount of space within the communal kitchen/dining area to accommodate communal dining/lounge space.

8.14 All habitable rooms have good access to natural light and in addition, a rear garden also provides external amenity space for the residents.

8.15 All the 7 bedrooms would have ensuite facilities, the accommodation therefore would provide a suitable overall arrangement of sanitary facilities.

8.16 Impact on neighbouring living conditions

8.17 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse in Class C3, would be unlikely to be

significantly different from the occupation of the property by up to 7 unrelated persons as an HMO.

- 8.18 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one HMO would not be significantly harmful.
- 8.19 All alterations to facilitate additional living accommodation are to be undertaken using permitted development, which the property benefits from. Any objections in regards to overlooking or loss of light from the dormer would not be material planning considerations as these works can be carried out without the need for planning permission.
- 8.20 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.
- 8.21 Highways/Parking
- 8.22 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Sui Generis HMOs with four or more bedrooms. It should be noted that the expected level of parking demand for a Class C3 dwellinghouse with five bedrooms is also 2 off-road spaces. The proposal has no off-street parking, which is no change from the current use.
- 8.23 As explained above, neither the Highways Officer nor Planning Officer highlights an issue with the scheme on the grounds of a lack of off-street parking. As the SPD requirement for parking is not different for the proposal than a similarly sized Class C3 dwellinghouse or C4 HMO (2 spaces), it is considered that refusal on a lack of parking is not reasonable or defensible. There is no objection on highway safety grounds and therefore refusal could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle, or even more than 1 vehicle each. In addition, it is considered that the site is within an area of good accessibility and located within an acceptable walking distance of the various amenities and services, and bus routes.
- 8.24 The Council's Adopted Parking Standards set out a requirement for C4 HMOs to provide space for the storage of at least 4 bicycles. The property has a rear garden where a proposed secure cycle storage is shown to be located - it is acknowledged that access to the cycle storage can only be achieved through the house given that there is no rear access to the garden. The requirement for cycle storage is recommended to be secured by condition.
- 8.25 Waste
- 8.26 The storage of refuse and recyclable materials would remain unchanged, to be accommodated in the suitable front forecourt area. An objection on waste grounds

would not form a sustainable reason for refusal and it is not considered necessary to require details of formalised waste storage.

8.28 Other matters raised in objections

8.29 Loss of property value is not a material planning consideration and cannot be given weight in the decision-making process. It is not considered that the use of the property as an HMO would necessarily result in an increase in crime and anti-social behaviour or materially affect local services and infrastructure.

8.30 Fire safety is covered by both building control and HMO licensing.

8.31 Impact on Special Protection Areas

8.32 As there is a measurable increase in occupancy from 2.4 persons (for a C3 dwelling) to 7 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and Recreational Disturbance to the SPA is required. This can be secured through a s111 agreement.

8.33 Human Rights and the Public Sector Equality Duty ("PSED")

8.34 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

8.35 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

9.0 CONCLUSION

9.1 Having regard to all material planning considerations it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

RECOMMENDATION Conditional Permission

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:

- (a) Receipt of no objection from Natural England;
- (b) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution. and conditions (below)

RECOMMENDATION II - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

RECOMMENDATION III - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.

CONDITIONS

Time Limit:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

Approved Plans:

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings:

- Location Plan PP-12412498v1
- Proposed Floor Plans 114-PL04/RevC, Proposed Side Elevations 114-PL06/RevA, Proposed Elevations and Section 114-PL05/RevA

Reason: To ensure the development is implemented in accordance with the permission granted.

Cycle Storage:

- 3) Prior to first occupation of the property as a House in Multiple Occupation, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

Water Efficiency

- 4) The proposal hereby permitted shall not (unless otherwise agreed in writing with the LPA) be occupied until written documentary evidence has been submitted to and approved in writing by the Local Planning Authority demonstrating that the development has achieved a maximum water use of 110 litres per person per day as defined in

paragraph 36(2)b of the Building Regulations (2010) (as amended). Such evidence shall be in the form of a post construction water efficiency calculator.

Reason: To ensure that the development complies with PCS15 of the Portsmouth Plan and does not exceed the scope of Nitrate Mitigation Credits purchased.

PD Works

- 5) Prior to the occupation of the property as a HMO for 7 persons, the rear dormer proposed to be constructed under permitted development allowances shall be completed.

Reason: In order to ensure that the property meets the required space standards and therefore provides a good standard of living in accordance with Policy PCS23 of the Portsmouth Plan.

Informative

- a) 2 x 360 litre bins are required for a 7 bed HMO. The applicant will need to purchase these bins directly from Portsmouth City Council Waste Management prior to the tenants moving in.
- b) Please be aware that an HMO license may be required. HMO licenses are assessed against new standards that may differ to those used in the Planning process and you are therefore advised to check the licensing requirements and standards prior to occupation. For more information, and to find out about our landlord accreditation scheme please contact the City Council's Private Sector Housing Team using the details below: Email: housing.privatesector@portsmouthcc.gov.uk Postal address: Private Sector Housing, Portsmouth City Council, Civic offices, Guildhall Square, Portsmouth, PO1 2AZ. Phone Number: 023 9284 1659

Agenda Item 9

23/01604/FUL

WARD: NELSON

124 TWYFORD AVENUE PORTSMOUTH PO2 8DL

CHANGE OF USE FROM A CLASS C3 DWELLINGHOUSE TO A 8-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION.

23/01604/FUL | CHANGE OF USE FROM A CLASS C3 DWELLINGHOUSE TO A 8-BED/8-PERSON HOUSE IN MULTIPLE OCCUPATION | 124 Twyford Avenue Portsmouth PO2 8DL

Application Submitted By:

Appleton

RDD: 18.01.2024

LDD: 21.02.2024

1.0 SUMMARY OF MAIN ISSUES

- 1.1 This application is brought before Planning Committee due 7 neighbour objections.
- 1.2 The main issues for consideration in the determination of the application are considered to be as follows:

- The principle of development;
- Standard of accommodation;
- Relevant planning history providing fallback position
- Parking;
- Waste;
- Amenity impacts upon neighbouring residents;
- Impact upon the Solent Protection Areas; and
- Any other raised matters.

2.0 SITE AND SURROUNDINGS

- 2.1 The application site comprises of a two-storey mid-terraced dwelling located to the eastern side of Twyford Avenue as shown in **Figure 1** below. The property, as with many others at this location, egresses straight on to the pedestrian footway and benefits from a fair to average-sized rear garden.
- 2.2 The surrounding area is predominantly residential in character with similar terraced properties. The application site falls within a residential area characterised by rows of two-storey terraced properties.



Figure 1 Location plan

3.0 THE PROPOSAL

- 3.1 Planning permission is sought for the change of use from dwellinghouse (Class C3) to House in Multiple Occupation for seven people. All bedrooms would be for single occupancy.
- 3.2 The proposed internal accommodation, as shown in **Figure 2** below, comprises the following:
- Ground Floor - Two bedrooms (both with ensuite shower, toilet and handbasin), communal Kitchen/Dining room, and a shared WC with handbasin.
 - First Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite)
 - Second Floor - Three bedrooms (all with a shower, toilet and handbasin ensuite).
- 3.3 The Applicant has stated that works to extend the property will be undertaken under permitted development/prior approval (without the need to apply for planning permission). These works include a single storey rear extension with extant prior approval, a rear dormer and rooflights to the front roofslope; these works are not included in the application. They should not be considered as part of the application.



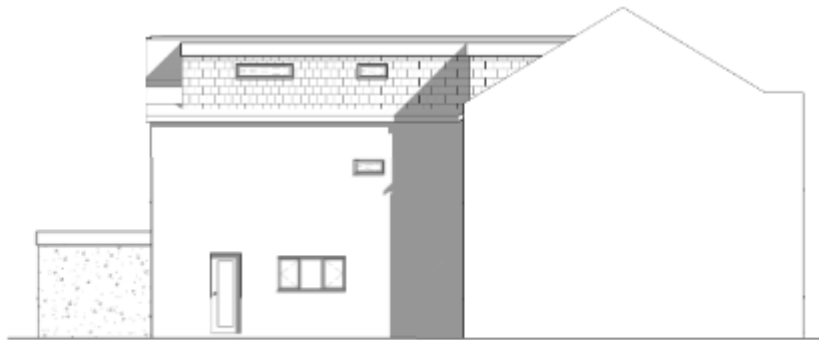
6 Proposed Front
1:100



7 Proposed Side
1:100



8 Proposed Rear
1:100



9 Proposed Side
1:100

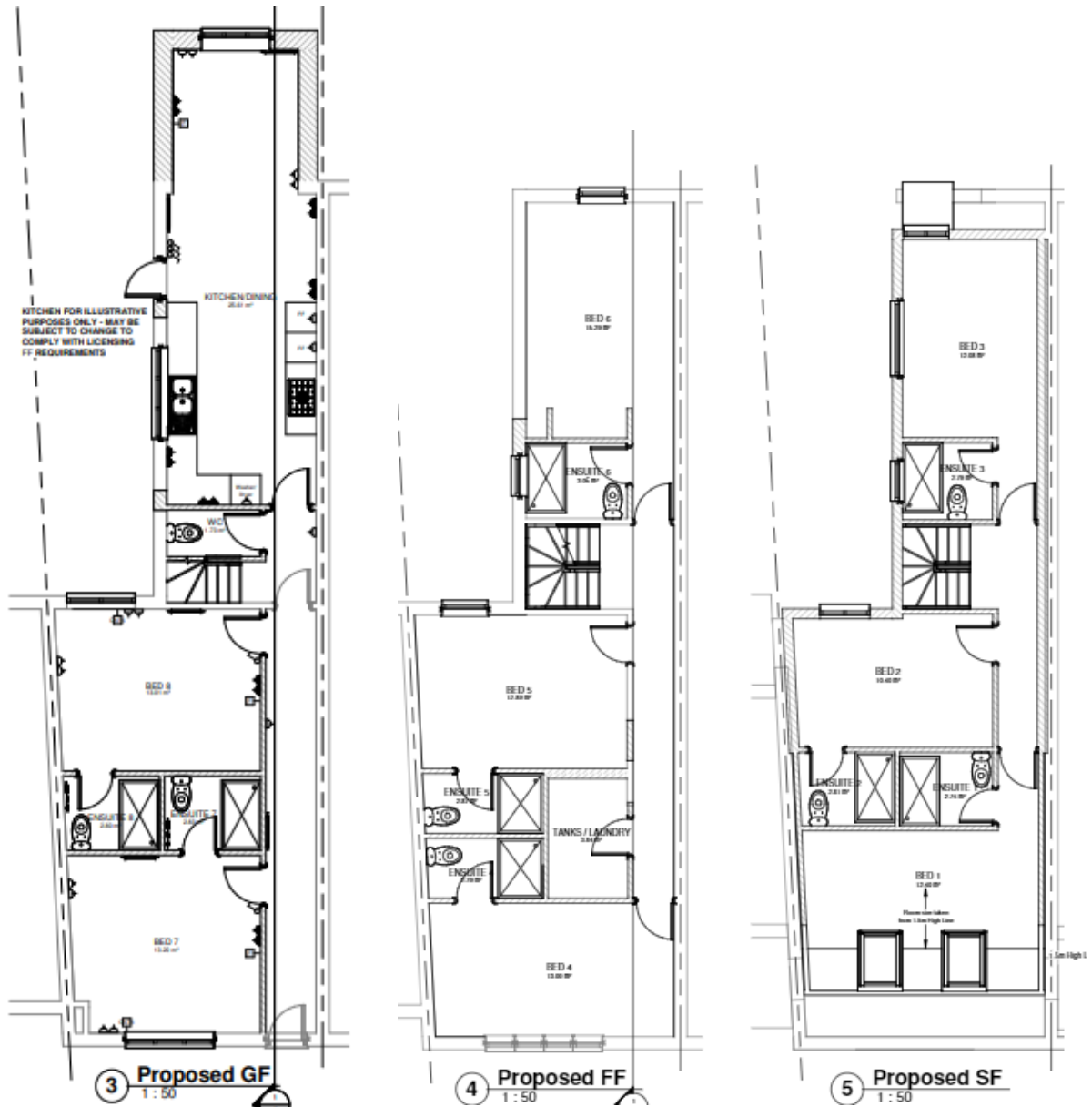


Figure 2 - Proposed Floor Plans & Elevations

4.0 PLANNING HISTORY

4.1 23/00053/GPDC Construction of single storey rear extension extending 4m beyond the rear wall, with a height of 2.8m to the eaves and a maximum height of 3m Prior Approval Not Required 15.08.2023

5.0 POLICY CONTEXT

5.1 Portsmouth Plan (2012)

5.2 In addition to the aims and objectives of the National Planning Policy Framework (2023), due weight has been given to the relevant policies within the Portsmouth Plan (2012), which include:

- PCS17 (Transport)

- PCS20 (Houses in Multiple Occupation)
- PCS23 (Design and Conservation).

5.3 Other Guidance

5.4 Guidance relevant to the assessment of this application includes:

- National Planning Practice Guidance (updated in 2023)
- The Parking Standards and Transport Assessments Supplementary Planning Document (2014)
- The Solent Recreation Mitigation Strategy (2017)
- The Updated Interim Nutrient Neutral Mitigation Strategy (2022)
- The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD').

6.0 CONSULTATIONS

6.1 Private Sector Housing - Based on the layout and sizes provided with this application this property would require to be licenced under Part 2, Housing Act 2004.

6.2 Highways Engineer - No objection. Twyford Avenue is a one-way residential road with bus stops along its frontage and amenities in close proximity along London Road. The property is situated within the FG CPZ, the current data indicates high parking pressure within the zone, as it is at approx. 99% capacity (number of permits permitted versus spaces available within the zone)

The proposed application appears to seek to convert the existing 2 bed residential unit to an 8 bedroom HMO. The submitted floorplans show two bedrooms albeit with a study within the existing property and therefore the proposal could result in an additional six bedrooms, there is therefore the potential for increased instances of residents driving around the area hunting for a parking space, however this an issue of residential amenity for you to consider in your determination of the application. It is not considered that size of development would lead to a material impact to the function of the highway.

The proposal does indicate secure cycle storage within the rear garden and therefore this should be implemented prior to occupation of the new residential units.

7.0 REPRESENTATIONS

7.1 Seven objections been received in response to the application.

7.2 The above representations of objection have raised the following concerns:

- a) Increase in noise and disturbance;
- b) Increase in crime and anti-social behaviour;
- c) Lack of car parking provision leading to an increase in traffic and exacerbation of existing on-street parking problems;
- d) Undue strain on local services and infrastructure, including the sewage, drainage, waste management and Doctors/Dentists
- e) Concerns about impact on community and loss of family dwelling

- f) Extension will block light and limit privacy through overlooking to neighbouring property.
- g) Fire risk

8.0 COMMENT

8.1 The main determining issues for this application relate to the following:

- The principle of Development;
- The standard of accommodation;
- Impact upon amenity neighbouring residents;
- Parking;
- Waste;
- Impact upon the Solent Protection Areas; and
- Any other raised matters

8.2 Principle of development

Five year Housing Land supply.

8.3 The National Planning Policy Framework (NPPF) states that planning decisions should be based on a presumption in favour of sustainable development (paragraph 11). That presumption does not apply where the project is likely to have a significant effect on a 'habitats site' (including Special Protection Areas) unless an appropriate assessment has concluded otherwise (paragraph 182). Where a local planning authority cannot demonstrate a five-year housing land supply of deliverable sites, the NPPF deems the adopted policies to be out of date and states that permission should be granted for development unless:

- I. the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or
- II. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

8.4 Currently, the Council can demonstrate 3.31 years supply of housing land. The starting point for determination of this application is therefore the fact that the authority cannot demonstrate a five-year supply of housing. This development would provide greater occupation of the building, so make a small, additional contribution towards the City's housing needs, at a sustainable location in the city, with good public transport, retail and services, employment, leisure, health facilities, etc. These factors weigh in favour of the proposed development. The further, specific impacts of the proposal must still be considered as to whether the development is appropriate in detail, as set out below.

HMO Policy

8.5 Permission is sought for the use of the property as a Sui Generis HMO for 7 persons. The property is currently considered to have a lawful use as a self-contained dwelling (Class C3).

- 8.6 Policy PCS20 of the Portsmouth Plan states that applications for change of use to a HMO will only be permitted where the community is not already imbalanced by a concentration of such uses, or where the development would not create an imbalance. The adopted Houses in Multiple Occupation SPD (as amended October 2019), sets out how Policy PCS20 will be implemented and details how the City Council will apply this policy to all planning applications for HMO uses. The SPD states that a community will be considered to be imbalanced where more than 10% of residential properties within the area surrounding the application site (within a 50m radius) are already in HMO use.
- 8.7 Based on information held by the City Council, of the 72 properties within a 50-metre radius of the application site, 2 have been identified as an HMO in lawful use. Therefore, the existing number of HMOs equates to 2.8% of the properties within the search area. The addition of the application property would result in one additional property being an HMO within the 50m radius increasing the number to 4.2%. As this is less than the 10% threshold limit above which an area is considered to be imbalanced the proposal is acceptable in these terms.
- 8.8 In addition to the HMO plan as shown below, a full check of planning history of properties within the 50m radius has also been undertaken. This tallies with the data on the HMO map with no additional HMOs found and therefore no inaccuracies have been identified with the data as collated.

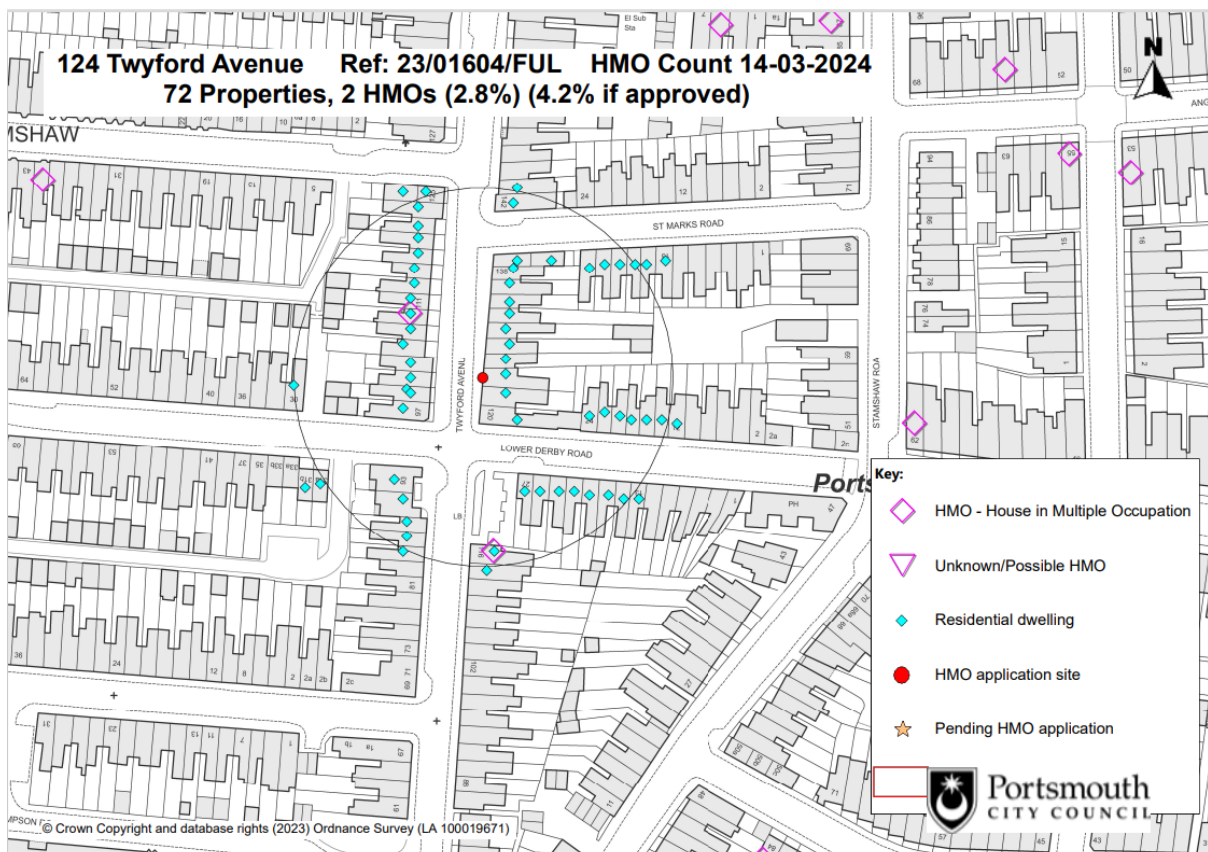


Figure 3- HMO Count Plan

- 8.9 A further policy strand introduced in July 2018, amended in October 2019, seeks to ensure that the amenity and standard of living environment of neighbours and local

occupiers is protected. This is explained within Appendix 6 of the HMO SPD, which references the specific proximity of HMOs to adjacent dwellings and how these circumstances may give rise to a particular risk of harm to amenity and disturbance. These are where:

- the granting of the application would result in three or more HMOs adjacent to each other, or
- where the granting of the application would result in any residential property being 'sandwiched' between two HMOs.

There is no conflict caused by this proposal with this guidance.

- 8.10 Having regard to the above, the proposal would comply with the aims and objectives of Policies PCS19 and PCS20 of the Portsmouth Plan (2012).

Standard of accommodation

- 8.11 The application seeks Sui Generis HMO use for 8 persons and proposes the following room sizes as measure by the planning officer, as shown in **Table 1** below.

Room	Area Provided	Required Standard
Bedroom 1 second floor (Single use)	12.4m ²	10.00m ²
Bedroom 2 second floor (Single use)	10.4m ²	10.00m ²
Bedroom 3 second floor (Single use)	12.1 m ²	10.00m ²
Bedroom 4 first floor (Single use)	13m ²	10.00m ²
Bedroom 5 first floor (Single use)	12.8m ²	10.00m ²
Bedroom 6 first floor (Single use)	15.3 m ²	10.00m ²
Bedroom 7 ground floor (Single use)	13.1m ²	10.00m ²
Bedroom 8 ground floor (Single use)	12.9m ²	10.00m ²
Shared WC (Ground Floor)	1.7m ²	1.17m ²
Communal Kitchen/Dining area (ground floor)	25.6m ²	22.5m ² (because all bedrooms exceed 10m ²)
Ensuite bathroom for bedroom 1	2.74m ²	2.74m ²
Ensuite bathroom for bedroom 2	2.81m ²	2.74m ²
Ensuite bathroom for bedroom 3	2.79m ²	2.74m ²
Ensuite bathroom for bedroom 4	2.79m ²	2.74m ²
Ensuite bathroom for bedroom 5	2.87m ²	2.74m ²
Ensuite bathroom for bedroom 6	3.06m ²	2.74m ²
Ensuite bathroom for bedroom 7	2.83m ²	2.74m ²
Ensuite bathroom for bedroom 8	2.8m ²	2.74m ²
Tanks/Laundry Room (first floor)	3.84m ²	N/A - additional/not required

Table 1 - House in Multiple Occupation (HMOs) - Ensuring mixed and balanced communities Supplementary Planning Document (SPD) (as amended in October 2019) - compliance

- 8.12 As is shown in the table above, the proposal meets the Council's adopted space standards in accordance with the HMO SPD. This states at para 2.6, that more detailed guidance, beyond these headline requirements should be referred to within the Council's standards for Houses in Multiple Occupation Guidance (September 2018). This more detailed guidance applies lower minimum requirements (of 22.5m²) for combined living accommodation in circumstances where all bedrooms are at least 10m² and the accommodation is otherwise acceptable as communal

space. On the basis of the information supplied with the application this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment - submitted proposed floor plans show a sufficient amount of space within the communal kitchen/dining area to accommodate communal dining/lounge space.

- 8.13 In terms of layout, all habitable rooms have good access to natural light and in addition, a rear garden also provides external amenity space for the residents.
- 8.14 In addition, all the 8 bedrooms would have ensuite facilities, with an additional shared WC on the ground floor providing acceptable sanitary facilities for occupants and visitors. The accommodation therefore would provide an adequate number and arrangement of sanitary facilities.

Impact on neighbouring living conditions

- 8.15 In terms of the impact on the living conditions of the adjoining occupiers, it is considered that the level of activity that could be associated with the use of any individual property as a dwellinghouse in Class C3, would be unlikely to be significantly different from the occupation of the property by up to 7 unrelated persons as an HMO.
- 8.16 The HMO SPD is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and of the impacts of high concentrations of HMOs on local communities. Paragraphs 9.1-9.10 discuss the negative impacts of HMO concentrations on local communities and points to the cumulative environmental effects of HMO concentrations. However, given that there is not an over-concentration of HMOs within the surrounding area, it is considered that the impact of one HMO would not be significantly harmful.
- 8.17 All alterations to facilitate additional living accommodation are to be undertaken using permitted development, which the property benefits from. The side/rear extension measures 1.75m in additional width. Historic maps have been checked, and it appears the rear addition was existing in 1947 and therefore the half width is applicable only to the extended part, and not the total cumulative width. Any objections in regard to overlooking or loss of light from the rear extension and dormer would not be material planning considerations as these works can be carried out without the need for planning permission.
- 8.18 Having regard to this material consideration, it is considered there would not be a significant impact on residential amenity from the proposal.

Highways/Parking

- 8.19 The City Council's Parking Standards SPD sets the level of off-road parking facilities for new developments within the city and places a requirement of 2 off-road spaces for Sui Generis HMOs with four or more bedrooms. It should be noted that the expected level of parking demand for a Class C3 dwellinghouse with five bedrooms is also 2 off-road spaces. The proposal has no off-street parking, which is no change from the current use.

- 8.20 As explained above, neither the Highways Officer nor Planning Officer highlights an issue with the application on the grounds of a lack of off-street parking. As the SPD requirement for parking is not different for the proposal than a similarly sized Class C3 dwellinghouse or C4 HMO (2 spaces), it is considered that refusal on a lack of parking is not reasonable or defensible. There is no objection on highway safety grounds and therefore refusal could not be sustained on appeal. It should be noted that the property could be occupied by a large family and/or with adult children, each potentially owning a separate vehicle, or even more than 1 vehicle each. In addition, it is considered that the site is within an area of good accessibility and located within an acceptable walking distance of the various amenities and services, and bus routes.
- 8.21 The Council's Adopted Parking Standards set out a requirement for C4 HMOs to provide space for the storage of at least 4 bicycles. The property has a rear garden where a proposed secure cycle storage is shown to be located - it is acknowledged that access to the cycle storage can only be achieved through the house given that there is no rear access to the garden. The requirement for cycle storage is recommended to be secured by condition.

Waste

- 8.22 The storage of refuse and recyclable materials would remain unchanged with an area at the rear of the property allocated for the storage of bins. An objection on waste grounds would not form a sustainable reason for refusal and it is not considered necessary to require details of formalised waste storage.

Other matters raised in objections

- 8.23 The material planning considerations raised by third parties are covered above. Concerns raised regarding fire risk is regulated by building regulations (Approved Document B) and HMO licensing.

Impact on Special Protection Areas

- 8.24 As there is a measurable increase in occupancy from 2.4 persons (for a C3 dwelling) to 7 persons, mitigation for increased Nitrate and Phosphate Output into the Solent and Recreational Disturbance to the SPA is required. This will be secured through a S.111 agreement.

Human Rights and the Public Sector Equality Duty ("PSED")

- 8.25 The Council is required by the Human Rights Act 1998 to act in a way that is compatible with the European Convention on Human Rights. Virtually all planning applications engage the right to the enjoyment of property and the right to a fair hearing. Indeed, many applications engage the right to respect for private and family life where residential property is affected. Other convention rights may also be engaged. It is important to note that many convention rights are qualified rights, meaning that they are not absolute rights and must be balanced against competing interests as permitted by law. This report seeks such a balance.

8.26 Under section 149 of the Equality Act 2010, the Council must have due regard to the need to eliminate discrimination, harassment, or victimisation of persons by reason of their protected characteristics. Further the Council must advance equality of opportunity and foster good relation between those who share a relevant protected characteristic and those who do not. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Having had due regard to the public sector equality duty as it applies to those with protected characteristics in the context of this application, it is not considered that the officer's recommendation would breach the Council's obligations under the Equality Act 2010.

9.0 CONCLUSION

9.1 Having regard to all material planning considerations it is concluded that the proposed change of use is acceptable and would be in accordance with the relevant policies of the Portsmouth Plan (2012) and the objectives of the National Planning Policy Framework (NPPF) (2021).

RECOMMENDATION Conditional Permission

RECOMMENDATION I - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to Grant Conditional Permission subject to:

- (a) Receipt of no objection from Natural England;
- (b) satisfactory completion of a Legal Agreement necessary to secure the mitigation of the impact of the proposed residential development on Solent Special Protection Areas (recreational disturbance and nitrates) by securing the payment of a financial contribution. and conditions (below)

RECOMMENDATION II - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to add/amend conditions where necessary.

RECOMMENDATION III - That delegated authority be granted to the Assistant Director of Planning & Economic Growth to refuse planning permission if a Legal Agreement has not been satisfactorily completed within three months of the date of this resolution.

CONDITIONS

Time Limit:

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990

Approved Plans:

- 2) Unless otherwise agreed in writing by the Local Planning Authority, the permission hereby granted shall be carried out in accordance with the following approved drawings:

- Location Plan PP-12695037v1

- Sui Gen Plan - 124Twyford.23.4

Reason: To ensure the development is implemented in accordance with the permission granted.

Cycle Storage:

- 3) Prior to first occupation of the property as a House in Multiple Occupation, secure and weatherproof bicycle storage facilities for 4 bicycles shall be provided at the site and shall thereafter be retained for the parking of bicycles at all times.

Reason: To ensure that adequate provision is made for cyclists using the premises in accordance with policies PCS17 and PCS23 of the Portsmouth Plan.

Water Efficiency

- 4) The proposal hereby permitted shall not (unless otherwise agreed in writing with the LPA) be occupied until written documentary evidence has been submitted to and approved in writing by the Local Planning Authority demonstrating that the development has achieved a maximum water use of 110 litres per person per day as defined in paragraph 36(2)b of the Building Regulations (2010) (as amended). Such evidence shall be in the form of a post construction water efficiency calculator.

Reason: To ensure that the development complies with PCS15 of the Portsmouth Plan and does not exceed the scope of Nitrate Mitigation Credits purchased.

PD Works

- 5) Prior to the occupation of the property as a HMO for 8 persons, the single storey rear extension and rear dormer proposed to be constructed under permitted development allowances shall be completed.

Reason: In order to ensure that the property meets the required space standards and therefore provides a good standard of living in accordance with Policy PCS23 of the Portsmouth Plan.

Informative

- a) 2 x 360 litre bins are required for a 7 bed HMO. The applicant will need to purchase these bins directly from Portsmouth City Council Waste Management prior to the tenants moving in.
- b) Please be aware that an HMO license may be required. HMO licenses are assessed against new standards that may differ to those used in the Planning process and you are therefore advised to check the licensing requirements and standards prior to occupation. For more information, and to find out about our landlord accreditation scheme please contact the City Council's Private Sector Housing Team using the details below: Email: housing.privatesector@portsmouthcc.gov.uk Postal address: Private Sector Housing, Portsmouth City Council, Civic offices, Guildhall Square, Portsmouth, PO1 2AZ. Phone Number: 023 9284 1659

Agenda Item 10

24/00105/FUL

WARD:ST THOMAS

68 MARGATE ROAD, SOUTHSEA, PO5 1EZ

CHANGE OF USE FROM HOUSE IN MULTIPLE OCCUPATION (CLASS C4) TO 7-BED/7-PERSON HOUSE IN MULTIPLE OCCUPATION

LINK TO ONLINE DOCUMENTS: [24/00105/FUL | Change of use from House in Multiple Occupation \(Class C4\) to 7-bed/7-person House in Multiple Occupation | 68 Margate Road Southsea PO5 1EZ \(portsmouth.gov.uk\)](#)

Application Submitted By:
Applecore PDM Ltd

On behalf of:
James Oliver Holdings Limited

RDD: 25th January 2024

LDD: 21st March 2024

1.0 SUMMARY OF MAIN ISSUES

1.1 This application is brought before Planning Committee due to the request of Councillor Vernon-Jackson

1.2 The main issues for consideration in the determination of the application are as follows:

- Principle of development including compliance with policy
- Impacts on amenity including parking
- Other material considerations

1.3 Site and surroundings

1.3 The application site comprises a two storey terraced dwelling with rooms in the roof in a predominately residential area.

1.4 The Proposal

1.5 The Applicant has sought planning permission for the change of use of the dwelling from the current lawful use of as a HMO with up to six individuals living together to allow up to 7 individuals to live together as an HMO. This change in occupancy will involve the repurposing of internal rooms but no external operational development forms part of this application

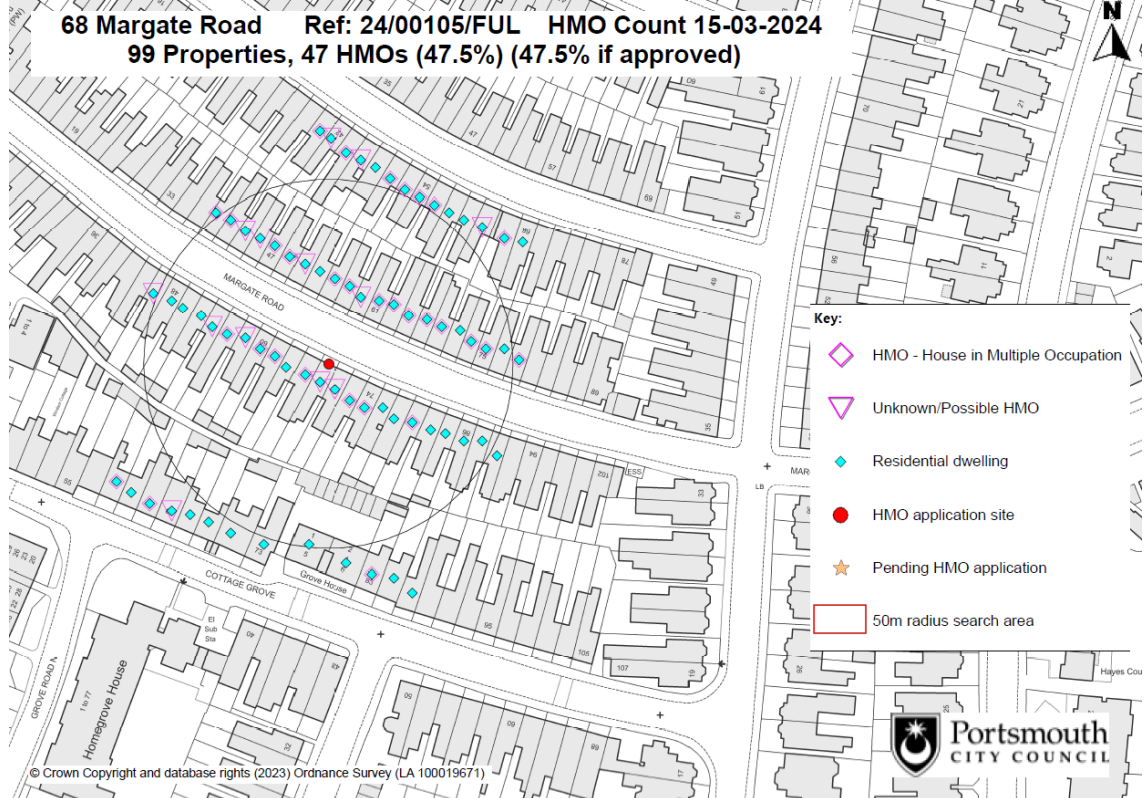
1.6 Planning History

- 23/00015/GPDC - Construction of single storey rear extension extending 6m beyond the rear wall, with a height of 2.8m to the eaves and a maximum height of 3m - Prior approval not required 12/04/23
- 23/00591/FUL - Change of use from House in Multiple Occupation (Class C4) to purposes falling within Class C3 (dwellinghouse) or Class C4 (House in Multiple Occupation) - Conditional approval 20/07/23

2.0 POLICY CONTEXT

- 2.1 In addition to the aims and objectives of the National Planning Policy Framework (2023), the relevant policies within the Portsmouth Plan (2012) would include: PCS17 (Transport), PCS20 (Houses in Multiple Occupation) and PCS23 (Design and Conservation).
- 2.2 Guidance for the assessment of applications that is relevant to the application includes The Parking Standards and Transport Assessments Supplementary Planning Document (2014), The Technical Housing Standards - nationally described space standards (2015), The Solent Recreation Mitigation Strategy (2017), The Updated Nutrient Neutral Mitigation Strategy (2022), and The Houses in Multiple Occupation (HMOs) Supplementary Planning Document (2019) ('the HMO SPD')
- 3.0 CONSULTATIONS**
- 3.1 Private Sector Housing - The City Council Private Sector Housing team advise that this property would require to be licenced under Part 2, Housing Act 2004. In addition, they state that the roof accommodation should have ceiling height of 2.3m for at least 75% of its area.
- 3.2 Local Highway Authority - advise that Margate Road lies within LB Parking Zone with 1004 issued parking permits, in excess of the capacity of 998. An additional bedroom could give rise to occupiers driving around the locality looking for a parking space, giving rise to potential amenity implications although no highway safety concerns are raised. There does not appear to be cycle storage indicated but it appears that this was approved as part of the extension permission.
- 4.0 REPRESENTATIONS**
- 4.1 One letter of objection was received with the main concern relating to parking due to the excessive number of HMOs making it difficult to find somewhere close to park.
- 5.0 COMMENT**
- 5.1 The main issue to consider in the determination of this application is whether the proposal is acceptable in principle.
- 5.2 Principle
- 5.3 The HMO SPD has been published to provide a tool for addressing the recognised impacts that HMO's may have in Portsmouth, most notably in relation to the residential amenity, both for occupiers of HMO's and neighbouring properties and housing mix of certain communities. Two of the key matters of principles explained in the HMO SPD are the assessment of housing mix to ensure balanced communities and the application of minimum room sizes, reflecting those in force as part of the private sector housing licencing regime, to ensure an appropriate living environment for future residents.
- 5.4 In this case the application site is already in lawful use as an HMO and the application has been made to recognise the intention to increase its occupation by 1 occupant. As such the application is not considered, on its individual facts, to create any material impact on the balance of the community in the area. The HMO SPD suggests a threshold of 10% of dwellings in any area of 50m radius as a maximum proportion of HMO dwellings to C3, single household, dwellings. As the minor increase in occupancy does not change this mix of dwellings the proposal has no impact on this guidance. For reference, it can be noted however that the relevant 50m radius area is currently made up of 47 HMOs out of 99 properties, a percentage of 47.5%. This proposal of course has no effect on that percentage and the small increase of HMO dwelling occupants in this area is not considered to create any demonstrable imbalance or adverse implications. The HMO SPD also described a number of circumstances where new HMOs are considered not desirable, such as where they 'sandwich' single household dwellings between HMOs or

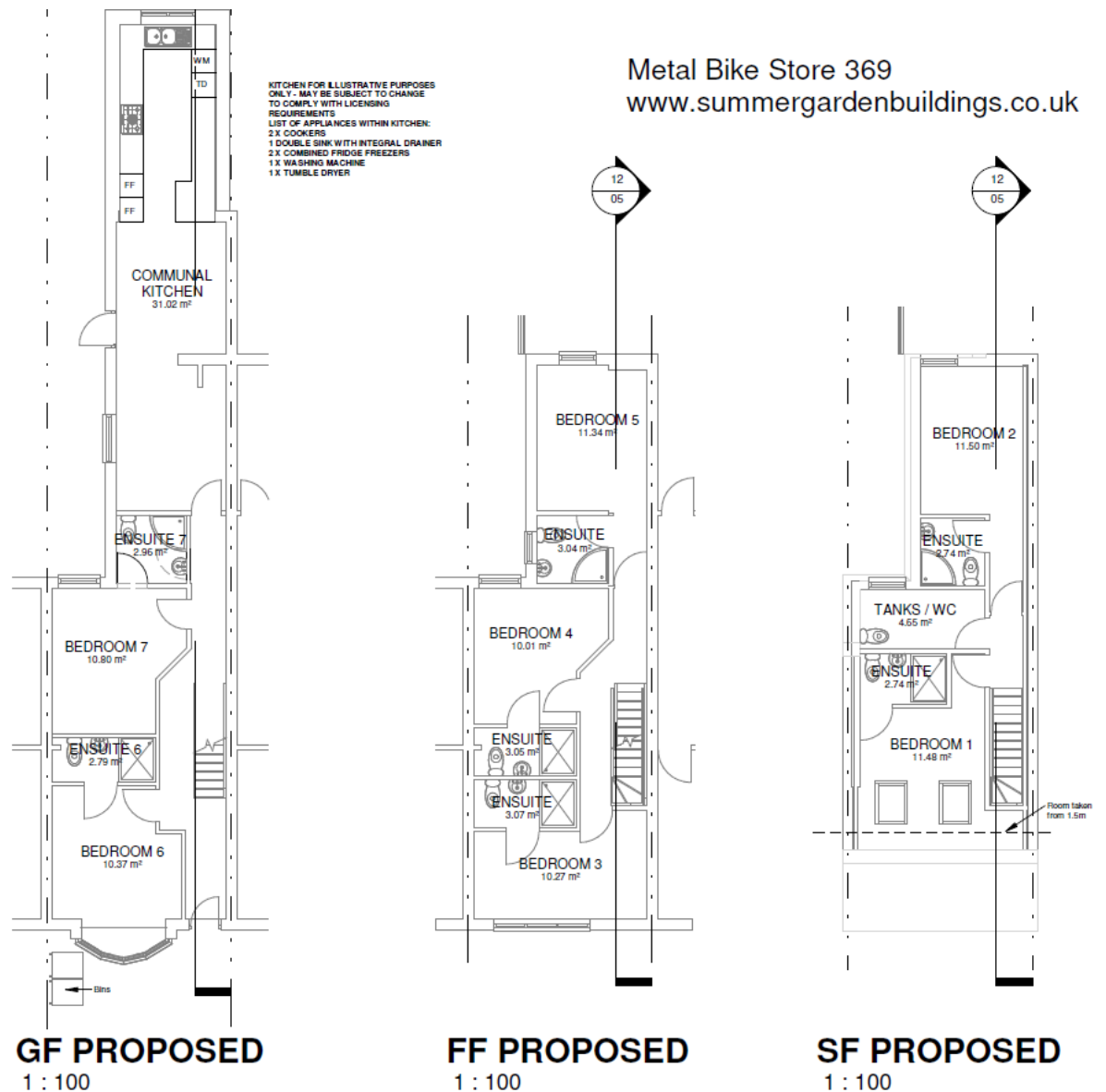
create a number of HMOs next to each other. As this proposal does not involve the creation of a new HMO these considerations are not brought into effect.



- 5.5 An application for a mandatory licence was submitted on 26th January 2024 and had the draft licence issued for 7 people on 12th February 2024. The second payment is required before the full licence is issued.
- 5.6 The repurposing of internal rooms to accommodate the additional occupants within this proposal will have an effect on the ratio of communal/amenity space compared to private bedroom space available internally for future occupants. While this matter will also be considered as part of the necessary licensing of the HMO by the Private Sector Housing team under the Housing Act, the HMO SPD identifies this as a consideration as part of the assessment of whether a good standard of living environment is provided for future residents as required by Local Plan Policy PCS23. Under the current proposal the following room sizes would be provided, as compared to the minimum size prescribed in the Council's adopted guidance:

Room	Area Provided:	Size provided for in Guidance:
Bedroom 1	11.48m ²	10m ²
Bedroom 2	11.50m ²	10m ²
Bedroom 3	10.27m ²	10m ²
Bedroom 4	10.01m ²	10m ²
Bedroom 5	11.34m ²	10m ²
Bedroom 6	10.37m ²	10m ²
Bedroom 7	10.80m ²	10m ²
Combined living space	31.02m ²	22.5m ² (because all bedrooms exceed 10m ²)
Ensuite B1	2.74m ²	2.74m ²
Ensuite B2	2.74m ²	2.74m ²
Ensuite B3	3.07m ²	2.74m ²
Ensuite B4	3.05m ²	2.74m ²
Ensuite B5	2.79m ²	2.74m ²
Ensuite B6	2.79m ²	2.74m ²
Ensuite B7	2.96m ²	2.74m ²

WC	4.65m ²	1.17m ²
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5.7 As is shown in the table above, the proposal results in an internal layout that meets a straightforward appraisal against the Council's adopted HMO SPD space standards except for the combined living space. However the HMO SPD, at para 2.6, advises that more detailed guidance, beyond these headline requirements should be referred to within the Council's standards for Houses in Multiple Occupation Guidance (September 2018). This more detailed guidance applies lower minimum requirements (of 22.5m²) for combined living accommodation in circumstances where all bedrooms are at least 10m² and the accommodation is otherwise acceptable as communal space. On the basis of the information supplied with the application this detailed guidance is considered applicable and the resulting layout is considered to result in a satisfactory standard of living environment.

5.8 With regard to the observations of Private Sector Housing, the second floor accommodation would have 2.3m head height for at least 75% of its floorspace.

5.9 Amenity and Parking

5.8 The proposal would increase the occupancy of the existing HMO by 1 occupant. While this would have a proportionate increase in activity within and coming and going from the

property this small increase in the number of residents is not considered likely to have any demonstrable adverse effect on residential amenity for neighbours of the surrounding area.

5.9 Similarly the minor increase of occupants is not considered to have a demonstrable impact on the parking need and thus parking availability in the wider area. It is noted that the Council's adopted Parking Standards, within the associated SPD has the same expectation for the number of parking spaces, 2 spaces per dwelling, for any scale of HMO with 4 or more bedrooms. Consequently the proposal remains in accordance with the Council's adopted guidance on parking provision.

5.10 Other Material Considerations

5.11 A key and overriding consideration in this case is the necessity to recognise the fall-back position available to the applicant; that is the position they could take if this application is refused. In this case the addition of only 1 occupant to the existing lawful HMO is not considered to amount to a material change in the use of the dwelling. Under s57 Town and Country Planning Act 1990 ('TCPA') there is a general requirement that development should not to be carried out, except with planning permission. However not all changes of use are considered to be 'development' and therefore not all changes require planning permission. Under s55 of the Town and Country Planning Act 1990 'development' is defined as making of a *material* change in the use of any buildings or land. Whether or not a change is a material change is a matter of fact and degree to be assessed on its own merits. Members will note a number of joint appeal decisions, the 'Campbell Properties' appeal dated 29 April 2021, and the 'Lane' appeal decision dated 9 March 2023 wherein the Inspector considered a number of similar changes of use and, on their individual merits, identified examples whereby a change in the occupancy of an existing HMO with up to 6 occupants to an occupancy up to 7 occupants, and a change in occupancy from up to 6 occupants to an occupancy of up to 8 occupants was not considered to be a material change of use notwithstanding it moved the classification of the dwellings outside of Use Class C4 of the Use Classes Order. While every application must be considered on their own individual merits these examples provide clear guidance on the correct interpretation of s55 of the TCPA and that appeal decision is considered to be a material consideration in the determination of similar applications. Members may also note the previous decisions of Portsmouth's Planning Committee which, contrary to Officer recommendation, determined similar changes in occupation amounted to a material change in use, primarily due to a conclusion that due to the intensity of the use of the accommodation; the impact on parking, waste, amenity impact upon neighbouring residents; and the impact on the solent special protection area the changes considered in those cases on their own individual merits amount to development requiring planning permission. The 'Lane' appeal decisions of 9 March 2023 were in respect of three such Planning Committee decisions and the Planning Inspector in those case disagreed both with the judgement of the Committee and was critical of the justification, noted above, as a basis for that judgement.

5.12 In the circumstances of the current application, it is considered that the increase in occupancy does not result in a significant difference in the character of the activities that would occur under the proposed occupation compared to the existing lawful use as a HMO with up to six occupants. As such it is considered that the change of use is not material and planning permission is not required for the increase in occupancy described in the application. The applicant therefore has a fall-back position of being able to lawfully carry out the increase in occupancy without the need for planning permission.

5.13 Should it be considered necessary to assess the merits of the application, notwithstanding the advice of Officers' above, the Committee's attention is drawn to the current 5-year housing land supply position within Portsmouth. In any planning application, the decision-maker will need to 'balance' any harms identified as arising from the development, against any benefits also arising. Principally, for this HMO application, the benefits are to the provision of housing through the provision of additional 1 bedspace of occupation within the HMO. While this is a small contribution to the overall housing stock, the Council

currently is unable to identify a 'five-year supply' of housing, with only a 3.31 year supply currently identifiable. In this circumstance, the Council is directed to consider that the policies which are most important to determinations associated with housing provision within the Local Plan are out of date. The consequence of this is that decision-takers are directed to apply a tilted balance to determinations so that permission is only withheld when the adverse impacts '*...significantly and demonstrably outweigh the benefits...*'. Any harm associated with the increase in occupancy in this area are considered to be insignificant and therefore fall short of being able to significantly and demonstrably outweigh even the small benefit to the city's housing stock of the provision of bedspaces, should such assessment be considered necessary.

5.15 Impact on Special Protection Areas

5.16 Whilst it is acknowledged that there are ongoing issues around the nitrification of the Solent due to increased levels of runoff from residential development. The applicants above fall-back position would allow the occupation of the site without Planning Permission. As such it is considered that the proposal would not amount to development and therefore not have Likely Significant Effect on the Solent Special Protection Areas or result in an increased level of nitrate discharge.

6.0 CONCLUSION

6.1 As detailed above, the application is considered to comply with the relevant policies of the Local Plan. However, notwithstanding the compliance or otherwise of the proposal with the policies of the Local Plan, it is noted that in this particular case, the changes in the character of activities are not sufficiently significant, as a matter of fact and degree, to be considered to result in a material change in the use of this property. As such planning permission is not required for the development described in the application and the proposal could be carried out as a fall-back position irrespective of the determination of this application. This is considered a material consideration of overriding weight, and unconditional planning permission should therefore be granted.

6.2 Should the Committee conclude, contrary to this recommendation, that the change in occupation, as a matter of planning judgement, fact and degree, in this specific case results in a material change of use requiring planning permission, then they should consider whether permission should be granted with conditions. In such a circumstance, as the merits of the proposed use comply with the relevant policies of the Local Plan and associated guidance, the Committee would need to consider whether to resolve to grant permission, subject to the imposition of conditions requiring implementation of the additional occupancy within 3 year (a time limit condition), requiring that the development be carried out in accordance with plans submitted (an approved plans condition), and requiring that that increased occupancy should not occur until an appropriate scheme of mitigation is submitted and approved to mitigate any impact on the Solent Special Protection Area.

RECOMMENDATION Unconditional Permission

Conditions: None